

State of South Dakota

EIGHTY-SECOND SESSION LEGISLATIVE ASSEMBLY, 2007

345N0001

HOUSE ENGROSSED NO. **HB 1003** - 01/17/2007

Introduced by: Representatives Pederson (Gordon), Dennert, Haverly, Peters, Putnam, Rausch, Rounds, Sigdestad, and Tidemann and Senators Lintz and Abdallah at the request of the Military and Veterans Affairs Agency Review Committee

1 FOR AN ACT ENTITLED, An Act to clarify, repeal, update, and make style and form changes
2 to certain statutes related to military and veterans affairs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 33-1-2 be amended to read as follows:

5 33-1-2. ~~There shall be one~~ One adjutant general, in the grade of major general, ~~who~~ shall be
6 appointed and shall serve as provided by § 1-32-3. At the time of ~~his~~ appointment, ~~he~~ the
7 adjutant general shall be a federally recognized commissioned officer of the South Dakota
8 National Guard, with not less than ten ~~years'~~ years military service in the armed forces of this
9 state or of the United States, ~~who shall have attained the grade of major or higher with federal~~
10 ~~recognition in such grade at least one year prior to his appointment as adjutant general. The~~
11 officer appointed to the position of adjutant general shall meet all of the requirements of the
12 officer's respective service to be appointed and receive federal recognition as a general officer
13 in that service, including any waivers that may be authorized and granted or delegated by the
14 secretaries of the Army or Air Force, as appropriate.

15 Section 2. That § 33-1-3 be repealed.



1 ~~33-1-3. Before entering upon the discharge of his duties the adjutant general shall take and~~
2 ~~subscribe the oath required by S.D. Const., Art. XXI, § 3, and give bond to the state in the penal~~
3 ~~sum of ten thousand dollars conditioned for the faithful performance of the duties of his office~~
4 ~~and an accounting by him of all funds and property of the state coming into his hands or under~~
5 ~~his control, and file the same with the secretary of state. The form of said bond shall be~~
6 ~~approved by the attorney general and the sufficiency thereof by the Governor, and the premium~~
7 ~~therefor shall be paid by the state.~~

8 Section 3. That § 33-1-6 be amended to read as follows:

9 33-1-6. The adjutant general shall distribute all orders from the Governor. ~~He shall be~~ The
10 adjutant general is the organ of all written communication from the ~~national guard~~ National
11 Guard to the Governor and ~~he shall attend him when the Governor if~~ required at review of the
12 ~~national guard~~ National Guard, or ~~whenever~~ if ordered in the performance of military duty. ~~He~~
13 ~~shall lay before~~ The adjutant general shall present to the Governor all recommendations with
14 reference to the Department of Military and Veterans Affairs and shall obey and issue ~~such~~
15 ~~orders as the Governor shall give in relation thereto~~ given by the Governor in relation to the
16 department and in all other military matters, ~~and shall be entitled to.~~ The adjutant general may
17 use the coat of arms of the state and the seal of ~~his~~ the office, with the words added thereto,
18 "State of South Dakota, the Adjutant General's Office." ~~He~~ The adjutant general shall submit
19 to the Governor copies of all charges properly preferred in writing against any officer or soldier
20 of the ~~national guard~~, ~~whenever~~ National Guard, if desired by the person preferring the charge,
21 as well as all proceedings of all general courts-martial. ~~He~~ The adjutant general shall biennially
22 make a return in triplicate of all the ~~national guard~~ National Guard of the state, ~~a copy of which~~
23 ~~he shall deliver~~ and shall deliver a copy of the return to the Governor on or before the first day
24 of December of each even-numbered year.

Section 4. That § 33-1-10 be amended to read as follows:

33-1-10. Within the National Guard Division of the Department of Military and Veterans Affairs, there ~~shall be~~ are separate sections for the ~~army and air national guard~~ Army National Guard and Air National Guard, with an assistant adjutant general in the grade of brigadier general as the head of each, under the general supervision and control of the adjutant general in the grade of major general. The qualifications of the assistant adjutants general for army and air ~~shall be~~ are the same as those prescribed under ~~current national guard~~ applicable National Guard regulations for federal recognition in the grade of brigadier general and applicable Department of Army and Air Force; and National Guard Bureau eligibility standards ~~prescribed in the technician personnel manual~~. At the time of his appointment, ~~he~~ the assistant adjutant generals shall be qualified or capable of meeting qualifications within a reasonable time and a federally recognized commissioned field grade officer of the South Dakota National Guard, with not less than eight ~~years~~ years service in the National Guard of South Dakota.

Section 5. That § 33-1-10.1 be amended to read as follows:

33-1-10.1. Notwithstanding the provisions of § 33-1-14, there shall be appointed an assistant adjutant general for the Army National Guard and Air National Guard of the State of South Dakota, as authorized by § 33-1-10. The tour of duty of the assistants ~~thus appointed~~ shall be as specified in the orders of the Governor with the consent of the Senate appointing the ~~same~~ assistants, and may be for any period not to exceed two years. Assistant adjutants general ~~shall be~~ are eligible for reappointment.

Section 6. That § 33-1-12 be amended to read as follows:

33-1-12. The adjutant general ~~shall have~~ has general supervision and control of the Department of Military and Veterans Affairs subject to the orders and instructions of the Governor, ~~and he shall~~. The adjutant general may have such staff assistants in the several

1 divisions named in this chapter as ~~he shall recommend~~ the adjutant general recommends and
2 the Governor ~~shall deem~~ deems necessary for economical administration.

3 Section 7. That § 33-1-15 be amended to read as follows:

4 33-1-15. The adjutant general shall appoint ~~such personnel as are named and designated as~~
5 all officers and appointees of the Department of Military and Veterans Affairs, except the
6 members of the Board of Military Affairs created by this chapter, ~~and he is authorized to.~~ The
7 adjutant general may employ such clerical and other employees and assistants as ~~he may deem~~
8 the adjutant general deems necessary for the proper transaction of the business of the
9 department, and fix their salaries except as otherwise provided by law.

10 Section 8. That § 33-1-16 be amended to read as follows:

11 33-1-16. Staff assistants in the Department of Military and Veterans Affairs shall be
12 commissioned by the Governor and have such rank in the general staff of the ~~national guard~~
13 National Guard as the Governor ~~may provide~~ provides in the commission of each. Such staff
14 officers ~~shall not be~~ are not entitled to any stated monthly or annual salary, but ~~when if~~
15 employed on detailed duty by order of the commander in chief, they shall receive the usual
16 compensation of their rank, unless otherwise directed by the Governor, and ~~such~~ any traveling
17 expenses ~~as are~~ authorized by § 3-9-2, audited by the adjutant general and approved by the
18 Governor.

19 Section 9. That § 33-1-20 be repealed.

20 ~~—33-1-20. Any person who shall violate any of the provisions of this chapter, unless otherwise~~
21 ~~specifically provided herein, shall be deemed guilty of a Class 2 misdemeanor.~~

22 Section 10. That § 33-1-21 be amended to read as follows:

23 33-1-21. With the approval of the adjutant general all military and civilian employees of the
24 Department of Military and Veterans Affairs ~~will~~ shall observe the holidays ~~set forth by the~~

1 ~~Code of Federal Regulations promulgated by the Civil Service Commission~~ designated by the
2 federal government in lieu of the enumerated holidays in § 1-5-1.

3 Section 11. That § 33-2-1 be amended to read as follows:

4 33-2-1. The Governor ~~shall be~~ is the commander in chief of the militia of the state, the
5 organized portion of which ~~shall be known and distinguished~~ is known as the South Dakota
6 National Guard.

7 Section 12. That § 33-2-2 be amended to read as follows:

8 33-2-2. The militia of the state ~~shall consist~~ consists of all able-bodied ~~male citizens~~
9 qualified residents of the state ~~who are between~~, and those nonresidents who are accepted into
10 service, who are within the age limits currently authorized by the Department of Defense for
11 enlisted personnel in the active components of the United States ~~Army, and such militia shall~~
12 ~~be~~ armed forces. The militia is divided into two classes: the ~~national guard~~ National Guard and
13 the unorganized militia.

14 Section 13. That § 33-2-3 be amended to read as follows:

15 33-2-3. The following persons are exempt from military duty:

- 16 (1) All persons in the armed forces or volunteer force of the United States and those who
17 have been honorably discharged therefrom;
- 18 (2) All persons who have served in the South Dakota National Guard for the term of six
19 years and have been honorably discharged. Exempted persons ~~included herein shall~~
20 ~~be~~ specified in this section are liable to military duty in case of war, insurrection, or
21 invasion, or imminent danger thereof.

22 Section 14. That § 33-2-4 be amended to read as follows:

23 33-2-4. The following persons are exempt from military duty:

- 24 (1) ~~All persons who are members~~ Any member of any well recognized religious sect or

organization, organized and existing ~~prior to~~ before March 1, 1917, whose creed forbids its members ~~to participate~~ from participating in war in any form, and whose religious convictions are against war or participation ~~therein~~ in war, in accordance with the creed of ~~such~~ the religious organization; and

(2) ~~Such other persons as may be~~ Any person who is exempted by the laws of the United States.

Section 15. That § 33-2-5 be repealed.

~~33-2-5. Idiots, lunatics, and persons convicted of infamous crimes, are exempt from military duty.~~

Section 16. That § 33-2-6 be amended to read as follows:

33-2-6. The militia shall be subject to perform no active military duty save and except in case of war, invasions, riots, insurrection, or disaster. In such case the Governor is hereby ~~authorized to~~ may order out from time to time, for actual service, as many of the militia as necessity may require, and to provide for their organization in the manner prescribed in this title for the organization of the national guard. In all such cases the national guard shall first be ~~ordered into service~~ necessary to execute the laws, preserve order, suppress insurrection, repel invasion, and provide disaster relief assistance.

Section 17. That § 33-2-7 be amended to read as follows:

33-2-7. ~~When~~ If any troops are in the field for the purposes mentioned in § 33-2-6, the senior ranking officer of the troops present shall take command; ~~provided that no.~~ However, no person shall be eligible to is eligible for a command in the militia of this state ~~except unless that person~~ is a citizen of the United States.

Section 18. That § 33-3-1 be repealed.

~~33-3-1. Whenever the word "company" is used in a military sense in chapters 33-3 to 33-12,~~

1 ~~inclusive, it shall be understood and construed to mean a company of infantry or engineers,~~
2 ~~troop of cavalry, battery of artillery, or similar unit of any other arm of the service.~~

3 Section 19. That § 33-3-2 be amended to read as follows:

4 33-3-2. The ~~national guard shall consist of the regularly enlisted militia between the ages~~
5 ~~currently authorized by the Department of Defense for enlisted personnel in the active~~
6 ~~components of the United States Army, organized, armed, and equipped as provided in this title~~
7 ~~and of commissioned officers between the ages of twenty-one and sixty years~~ National Guard
8 shall be organized, armed, and equipped as provided in this title and shall consist of the
9 following:

10 (1) The members of the regularly enlisted militia who are within the age limits
11 authorized by the Department of Defense; and

12 (2) All commissioned and warrant officers who are within the age limits authorized for
13 such officers.

14 The adjutant general is a member of the National Guard but is exempt from the age
15 requirements set forth in this title.

16 Section 20. That § 33-3-3 be amended to read as follows:

17 33-3-3. The military units of the ~~national guard~~ National Guard shall be composed and
18 organized, except as otherwise specifically provided, the same as the armed forces of the United
19 States subject in time of peace to such general exceptions as may be authorized by the secretary
20 of defense, ~~and no units or organizations of the national guard.~~ No unit or organization of the
21 South Dakota National Guard and no ~~units~~ unit of any branch or arm of the service ~~shall~~ may
22 be maintained in the state, except ~~such~~ as are authorized by the President of the United States
23 and recognized by the secretary of defense.

24 Section 21. That § 33-3-4 be repealed.

1 ~~33-3-4. The national guard in time of peace shall consist of the adjutant general and such~~
2 ~~organizations and units of the several arms of the service as are authorized by the President of~~
3 ~~the United States and recognized as the national guard by the secretary of defense, and such~~
4 ~~auxiliary troops as may be authorized by the Department of Defense, such auxiliary troops and~~
5 ~~such departmental and staff officers as shall be authorized by law and by regulations~~
6 ~~promulgated by the secretary of defense.~~

7 Section 22. That § 33-3-5 be amended to read as follows:

8 33-3-5. The Governor is ~~hereby authorized and empowered to~~ may muster and present to
9 the Department of Defense for recognition ~~such~~ organizations and units ~~as may be authorized~~
10 ~~by the President and as may be necessary to conform to the regulations and requirements of the~~
11 ~~Department of Defense under the laws of the United States~~ authorized by applicable federal law
12 and regulations.

13 Section 23. That § 33-3-6 be amended to read as follows:

14 33-3-6. The Governor ~~shall have the power~~ may, in case of war, insurrection, invasion, riot,
15 or imminent danger, ~~to increase the national guard~~ National Guard force beyond the maximum
16 established by law and ~~to~~ may organize and muster the additional forces with proper officers,
17 as the exigency of the service ~~may require~~ requires and the President ~~may authorize~~ authorizes.

18 Section 24. That § 33-3-7 be amended to read as follows:

19 33-3-7. ~~When~~ If the President ~~has authorized~~ authorizes the recruiting and presentation for
20 muster of a unit or organization of any arm of the service, the recruiting of ~~such~~ the unit or
21 organization is ~~hereby authorized and~~ shall be ~~had~~ done in accordance with the rules ~~and~~
22 ~~regulations made~~ promulgated by the Governor pursuant to chapter 1-26.

23 Section 25. That § 33-3-8 be amended to read as follows:

24 33-3-8. The Governor is ~~hereby authorized to~~ may determine and fix the location of the units

1 and headquarters of the ~~national guard, provided that~~ South Dakota National Guard. However,
2 no organization of the ~~national guard, members of which shall be~~ National Guard whose
3 members are entitled to and ~~shall~~ have received compensation under the provisions of any act
4 of Congress ~~shall~~ may be disbanded without the consent of the President, ~~nor without such~~
5 ~~consent shall the~~. The commissioned or enlisted strength of any such organization may not be
6 reduced below the minimum ~~that shall be~~ prescribed ~~therefor~~ for the organization by the
7 President without the consent of the President.

8 Section 26. That § 33-3-9 be amended to read as follows:

9 33-3-9. The organization, armament, equipment, and discipline of the ~~national guard~~
10 National Guard, except as specifically provided in this title, ~~shall be~~ are the same as is
11 prescribed under the provisions of ~~any pertinent act of Congress relating to the national guard,~~
12 ~~or any subsequent amendments thereto or substitutes therefor, and, as to those requirements~~
13 ~~which are mandatory therein, as may be prescribed by the regulations of the Department of~~
14 ~~Defense published in pursuance therewith, and so far as the Governor may prescribe as to those~~
15 ~~things which are optional therein, and any change shall become effective as to the guard when~~
16 ~~an order or a regulation to that effect shall have been promulgated by the Governor~~ applicable
17 federal law for the National Guard. To the extent that the provisions of federal law allow
18 discretion, the Governor may issue orders governing the organization, armament, equipment,
19 and discipline of the National Guard.

20 Section 27. That § 33-3-10 be amended to read as follows:

21 33-3-10. The discipline, ~~which includes~~ and training of the ~~national guard,~~ National Guard
22 shall conform to the system ~~which is~~ prescribed in this chapter and in applicable federal law and
23 regulation for the armed forces of the United States; ~~and the training of the national guard in this~~
24 ~~state shall be carried on so as to conform to the provisions prescribed by this chapter and by the~~

1 ~~law, rules, and regulations of such armed forces.~~

2 Section 28. That § 33-3-12 be amended to read as follows:

3 33-3-12. The ~~national guard shall be~~ South Dakota National Guard is subject to this title and
4 all orders authorized by this title and rules promulgated pursuant to this title in accordance with
5 the provisions of chapter 1-26; ~~and in. In~~ all matters not specifically covered ~~thereby it shall be~~
6 by this title or by such orders or rules, the National Guard is subject to the applicable regulations
7 of the Department of Defense governing the organized militia and the ~~national guard, National~~
8 Guard, to the Uniform Code of Military Justice, ~~the armed forces regulations, and such~~
9 ~~regulations and orders as may be made and published in pursuance therewith~~ and to the
10 applicable regulations of the armed forces of the United States.

11 Section 29. That § 33-3-13 be amended to read as follows:

12 33-3-13. The adjutant general, by direction of the Governor, may cause members of the
13 ~~national guard~~ National Guard to perform any lawful military duty; ~~and he shall be. The adjutant~~
14 general is responsible to the Governor for the general efficiency of the ~~national guard~~ National
15 Guard and for the drill, instruction, inspection, small arms and artillery practice, movements,
16 operations, and care of the troops.

17 Section 30. That § 33-3-21 be amended to read as follows:

18 33-3-21. The commanding officer of any parade or drill of the ~~national guard~~ National
19 Guard, and the officer in charge of any rendezvous or camp, may cause the ~~ground area~~ selected
20 for that purpose to be marked and designated in such manner as not unnecessarily to obstruct
21 travel on any public highway; ~~and if. If~~ any person, during the occupation of ~~such ground the~~
22 area for military purposes, ~~shall encroach upon such bounds or enter upon such ground~~ enters
23 the designated area without the permission of ~~such officer, he~~ the officer, the person may be
24 arrested and kept under guard by ~~the order of such the officer until the setting of the sun of the~~

1 ~~same day, or for such reasonable time as may be necessary to procure his~~ the person's arrest by
2 the civil authorities. Any such offender is also guilty of a Class 2 misdemeanor.

3 Section 31. That § 33-3-22 be amended to read as follows:

4 33-3-22. If any person ~~shall intercept, molest, insult, or abuse~~ intercepts, molests, insults,
5 or abuses any officer or enlisted ~~man of the national guard~~ member of the National Guard while
6 in the performance of ~~his~~ the member's military duty, ~~he~~ the person may be immediately arrested
7 and kept confined, in the discretion of the commanding officer of the force engaged in such
8 duty, until ~~the setting of the sun~~ sunset of the same day on which the offense ~~shall have been~~ is
9 committed, or for such reasonable time as may be necessary to procure ~~his~~ the person's arrest
10 by the civil authorities. Any such offender is also guilty of a Class 1 misdemeanor.

11 Section 32. That § 33-3-23 be amended to read as follows:

12 33-3-23. ~~To accustom the national guard troops to the use of their arms, target practice must~~
13 ~~be encouraged.~~ The Governor ~~shall~~ may order ~~such~~ target practice as the allowance of
14 ammunition will permit and ~~he~~ shall offer suitable medals, badges, or trophies, to be inscribed
15 and given in the name of the state, to the persons and organizations who, upon competition,
16 ~~shall~~ show their superior attainments as marksmen. The provisions of this section shall be
17 carried out under orders and regulations issued by the Governor.

18 Section 33. That § 33-3-27 be repealed.

19 ~~— 33-3-27. The Governor is hereby authorized and empowered to organize the national guard~~
20 ~~reserve, which shall consist of such organizations, officers, and enlisted men as the President~~
21 ~~of the United States may prescribe, and to make and issue such rules and regulations, not in~~
22 ~~conflict with the rules and regulations made by the President or secretary of defense, as may be~~
23 ~~necessary for the government and maintenance of such organization.~~

24 Section 34. That § 33-4-1 be amended to read as follows:

1 33-4-1. All officers of the ~~national guard~~ National Guard shall be commissioned by the
2 Governor, ~~in his~~ at the Governor's discretion, upon the recommendation of the adjutant general;
3 ~~but no one shall be commissioned unless he has been selected from the classes as provided in~~
4 ~~§ 33-4-3 and has successfully passed the test as prescribed by the President of the United States~~
5 ~~as to his physical, moral, and professional fitness, and no one shall be commissioned unless the~~
6 ~~conditions set forth in §§ 33-4-2 to 33-4-6, inclusive, have been complied with, and no one~~
7 ~~shall.~~ However, no person may be commissioned as an officer unless the person has been
8 examined and adjudged qualified to be an officer by an examining board. The composition,
9 appointment, and examining procedure of the board and the nature and scope of the
10 examinations shall be prescribed by federal law or regulation or by rules promulgated by the
11 adjutant general pursuant to chapter 1-26, as the circumstance dictates. No person may be
12 recognized as an officer unless ~~he shall have~~ the person has been duly commissioned and ~~shall~~
13 ~~have~~ has taken the oath of office as prescribed in § 33-4-9.

14 Section 35. That § 33-4-2 be amended to read as follows:

15 33-4-2. ~~Commissioned officers of the national guard must be citizens~~ Any commissioned
16 officer of the National Guard shall be a citizen of the United States and ~~of this state, and meet~~
17 ~~be either a qualified resident of this state or a nonresident who is accepted into service of the~~
18 South Dakota National Guard. Any commissioned officer shall further meet the qualifications
19 prescribed by ~~the United States Code~~ federal law and the regulations of the Department of
20 Defense. No person who has been expelled ~~or dishonorably discharged from the Army from or~~
21 has received a less than honorable discharge from any branch of the armed forces of the United
22 States or from any military organization of any state ~~shall~~ may be commissioned.

23 Section 36. That § 33-4-3 be repealed.

24 ~~33-4-3. Persons commissioned as officers of the national guard shall not be recognized as~~

1 such unless they shall have been selected from the following classes, and shall have taken and
2 subscribed to the oath of office prescribed in § 33-4-9:

3 ~~—(1)— Officers or enlisted men of the national guard;~~

4 ~~—(2)— Officers on the reserve or unassigned list of the national guard;~~

5 ~~—(3)— Officers, active or retired, and former officers of the United States Army, Navy, Air
6 Force, and Marine Corps;~~

7 ~~—(4)— Graduates of the United States Military and Naval Academies, and graduates of
8 schools, colleges, and universities where military science is taught under the
9 supervision of an officer of the armed forces of the United States; and~~

10 ~~—(5)— For the technical branches and staff corps or departments, such other civilians as may
11 be specially qualified for duties therein.~~

12 Section 37. That § 33-4-4 be repealed.

13 ~~—33-4-4. The provisions of this title and the provisions of any act pertaining to the national
14 guard passed by Congress shall not apply to any person appointed an officer of the national
15 guard unless he first shall have successfully passed such tests as to his physical, moral, and
16 professional fitness as the President of the United States shall prescribe. The examinations to
17 determine such qualification for such commissions shall be conducted by a board of three
18 commissioned officers appointed by the secretary of defense from the armed forces of the
19 United States, or the national guard, or both.~~

20 Section 38. That § 33-4-5 be amended to read as follows:

21 33-4-5. No person shall be commissioned as an officer of the national guard unless he shall
22 possess the additional requirements prescribed in this section or § 33-4-6 for the particular office
23 to which he is to be commissioned. A colonel of a regiment, at the time of his appointment,
24 must either be an officer in active service in the national guard of this state and for three

1 ~~successive years immediately preceding his appointment must have been in active service in~~
2 ~~such national guard as a commissioned officer, or, if not in active service at the time of his~~
3 ~~appointment, must have had prior service of at least six years in the national guard of this state~~
4 ~~or in the armed forces of the United States, or in both combined, as a commissioned officer. A~~
5 ~~lieutenant colonel or major of the line, at the time of his appointment, must either be an officer~~
6 ~~in active service, or for two successive years immediately preceding his appointment must have~~
7 ~~been in active service in the national guard of this state as a commissioned officer, or if not in~~
8 ~~active service at the time of his appointment must have had prior service of at least six years in~~
9 ~~the national guard of this state, or in the armed forces of the United States, or in both combined,~~
10 ~~as a commissioned officer. All staff officers, except medical officers and chaplains, must have~~
11 ~~served one year immediately preceding their appointment in the national guard of this state~~
12 Except as specifically excluded by statute or military regulation, any person commissioned as
13 an officer in the National Guard shall meet the requirements for federal recognition and
14 appointment to the identical rank and position in the National Guard as is required for persons
15 serving on active duty in the armed forces.

16 Section 39. That § 33-4-6 be repealed.

17 ~~—33-4-6. The assistant judge advocate general of the national guard must be a licensed~~
18 ~~attorney and counselor at law of this state of at least four years' standing. Surgeons, assistant~~
19 ~~surgeons, and dental surgeons must be duly licensed and practicing physicians and surgeons or~~
20 ~~dental surgeons under the laws of this state, and of at least fifteen years' service if of the grade~~
21 ~~of colonel, of at least ten years' service if of the grade of lieutenant colonel, of at least five years'~~
22 ~~service if of the grade of major, of at least three years' service if of the grade of captain, and of~~
23 ~~at least two years' service if of the grade of first lieutenant. A chaplain must be a regular~~
24 ~~ordained minister of some religious denomination.~~

Section 40. That § 33-4-7 be repealed.

~~33-4-7. Officers of the staff of the adjutant general, the national guard field officers of the line, the extra officers allowed to regiments, battalions, and squadrons for staff duty, surgeons, assistant surgeons, and chaplains shall be appointed and assigned by the Governor upon the recommendation of their immediate commanding officers, provided such officers are qualified under the provisions of this chapter and the regulations of the Department of Defense, and such recommendation is approved by the adjutant general. In case of original appointment from civil life the selection and nomination shall be made by the Governor upon recommendation of the adjutant general; provided that the persons so selected shall be qualified for such appointment under the provisions of this chapter, and provided further, that such persons so nominated shall be subject to any examination which may be prescribed by the President of the United States, or by the rules promulgated pursuant to chapter 1-26 governing the national guard in this state.~~

Section 41. That § 33-4-8 be amended to read as follows:

33-4-8. ~~When~~ If the Governor desires to create a new organization of the national guard he shall have the power in the first instance to National Guard, the Governor may appoint all the officers necessary to commence and complete ~~such~~ the organization.

Section 42. That § 33-4-10 be amended to read as follows:

33-4-10. The Governor shall issue commissions to all officers of the ~~national guard~~ National Guard appointed by ~~him~~ the Governor. Every commission shall be signed by the Governor and attested by the adjutant general. Each officer so commissioned shall take and file with the adjutant general the oath of office prescribed in § 33-4-9.

Section 43. That § 33-4-11 be repealed.

~~33-4-11. All commissioned officers of the national guard shall take rank according to the date assigned them by their commissions, and when two of the same grade rank from the same~~

1 ~~date, their rank shall be determined by their length of service in the national guard, and if of~~
2 ~~equal service, then by lot.~~

3 Section 44. That § 33-4-12 be amended to read as follows:

4 33-4-12. The Governor may appoint and detail a board to be known as the Board of
5 Examiners for the purpose of determining the fitness of officers of the ~~national guard~~ National
6 Guard and applicants for office, and for promotion of officers. ~~Such~~ The board shall promulgate
7 rules pursuant to chapter 1-26 governing ~~their~~ its procedure; ~~provided such rules shall conform~~
8 ~~to and comply with the rules and regulations issued by the secretary of defense.~~

9 Section 45. That § 33-4-13 be repealed.

10 ~~—33-4-13. All promotions of field and line officers of the national guard shall be determined~~
11 ~~by seniority, unless otherwise ordered by the Governor, but before any officer shall be promoted~~
12 ~~and commissioned he shall have qualified for such promotion by passing the required tests as~~
13 ~~prescribed by the President and shall pass an examination as to his fitness and qualifications~~
14 ~~before a board of his superior officers detailed for that purpose as provided in § 33-4-12.~~

15 Section 46. That § 33-4-14 be repealed.

16 ~~—33-4-14. A commissioned officer of the national guard cannot be removed from office~~
17 ~~without his consent, except by sentence of a general court-martial or as prescribed in this title.~~

18 Section 47. That § 33-4-15 be repealed.

19 ~~—33-4-15. At any time the moral character, capacity, and general fitness for the service of any~~
20 ~~national guard officer may be determined by an efficiency board of three commissioned officers;~~
21 ~~senior in rank to the officer whose fitness for service shall be under investigation, and if the~~
22 ~~findings of such board be unfavorable to such officer, and be approved by the officer authorized~~
23 ~~to appoint such officer, he shall be discharged. Failure to appear when ordered before a board~~
24 ~~constituted under this chapter shall be sufficient ground for a finding by such board that the~~

1 officer ordered to appear be discharged. Commissions of the officers of the national guard may
2 be vacated upon resignation, or absence without leave for three months, upon the
3 recommendation of an efficiency board or pursuant to sentence of a court-martial.

4 Section 48. That § 33-4-16 be repealed.

5 —33-4-16. Officers of the national guard rendered superfluous by the disbandment of their
6 organizations shall be placed in the national guard reserve. Officers may, upon their own
7 application, be placed in such reserve after three years' active service.

8 Section 49. That § 33-4-17 be repealed.

9 —33-4-17. The resignation of officers of the national guard shall be addressed to the Governor
10 and transmitted to the adjutant general through regular military channels, and all commanding
11 officers before forwarding resignations shall endorse thereon their approval or disapproval,
12 together with all facts bearing on the case, but an officer tendering his resignation shall not be
13 considered out of the service until his resignation has been accepted and an order issued by the
14 Governor accepting such resignation.

15 Section 50. That § 33-4-18 be repealed.

16 —33-4-18. The resignation of an officer of the national guard having been accepted by the
17 Governor, the adjutant general shall issue to such officer a discharge, showing the reason
18 therefor. A commissioned officer tendering his resignation, if accepted by the Governor, shall
19 receive an honorable discharge; provided he shall not be under arrest or returned to a military
20 court for any deficiency or delinquency; and provided further, he be not indebted to the state in
21 any manner, and that all his accounts for money or public property be fully settled.

22 Section 51. That § 33-4-19 be amended to read as follows:

23 33-4-19. No state funds shall may be used for the purchase of uniforms or equipment of
24 officers of the national guard, except that National Guard. However, such equipment may be

1 issued by the quartermaster general upon the approval of the Governor.

2 Section 52. That § 33-5-1 be amended to read as follows:

3 33-5-1. Any person who is a citizen of the United States, or has declared ~~his~~ the intention
4 to become a citizen, who is within the age limits currently authorized by the Department of
5 Defense for enlistment in the active components of the United States armed forces, ~~able bodied,~~
6 ~~free from disease, of good character and temperate habits,~~ may be enlisted in the ~~national guard~~
7 ~~of this state~~ South Dakota National Guard under the restrictions of this ~~chapter, and the title.~~
8 The qualifications and procedures for enlistment ~~shall be~~ are the same as those prescribed for
9 admission to the reserve components of the armed forces of the United States.

10 Section 53. That § 33-5-3 be repealed.

11 ~~— 33-5-3. Men who have been discharged from the national guard by reason of disbandment~~
12 ~~may be enlisted and shall then receive credit for the period served at the time of such~~
13 ~~disbandment. A man discharged for physical disability, if such disability cease and he again~~
14 ~~enlists, or a man discharged upon his own request should he again enlist, shall receive credit for~~
15 ~~the period served prior to such discharge.~~

16 Section 54. That § 33-5-5 be repealed.

17 ~~— 33-5-5. Enlistments in the national guard shall not be received from persons who have not~~
18 ~~been residents of a community in which the enlistment is desired for at least three months~~
19 ~~preceding the application, without special authority from the regimental or other higher~~
20 ~~commanding officer.~~

21 Section 55. That § 33-5-9 be repealed.

22 ~~— 33-5-9. Every applicant for enlistment or re-enlistment in the national guard shall be given~~
23 ~~a physical examination, conducted by an officer of the medical corps, active or reserve, of the~~
24 ~~national guard, designated by the Governor of the state. If no officer of the medical corps is~~

1 ~~available, the adjutant general may, with the approval of the Governor, arrange for such~~
2 ~~examination to be conducted by a qualified civilian surgeon. All medical examinations shall be~~
3 ~~conducted in accordance with the authorized rules for examining recruits for the regular army.~~
4 ~~The necessary forms and materials shall be furnished by the Department of Defense, and no~~
5 ~~person shall be enlisted in the national guard until he has passed such examination and been~~
6 ~~approved by the medical officers conducting such examination. The record of such examinations~~
7 ~~shall be filed with the records of the organization to which the soldier belongs, and the reports~~
8 ~~and records pertaining thereto shall be made in accordance with the rules and regulations which~~
9 ~~are now or may hereafter be in force.~~

10 Section 56. That § 33-5-10 be amended to read as follows:

11 33-5-10. ~~When a soldier of the national guard changes his~~ If a member of the National
12 Guard changes primary residence within the state, ~~he~~ the member may be transferred to a unit
13 of the ~~national guard~~ National Guard located at the place of ~~his new~~ the new primary residence.
14 ~~When~~ If there is no organization of the ~~national guard~~ located at his National Guard located
15 within fifty miles of the member's new primary residence or if no unit vacancy exists in a
16 National Guard unit located within fifty miles of the new primary residence, ~~a soldier~~ the
17 member may be ~~furloughed to the national guard~~ transferred to the inactive National Guard or
18 individual ready reserve by order of the Governor.

19 Section 57. That § 33-5-11 be amended to read as follows:

20 33-5-11. In time of peace ~~an enlisted man shall not,~~ no enlisted member of the National
21 Guard may be discharged before the expiration of his the member's period of enlistment, except:

- 22 (1) By order of the President or secretary of defense;
- 23 (2) By sentence of a general court-martial;
- 24 (3) By direction of the Governor on account of disability; 2 on account of sentence of

1 imprisonment by civil court; on account of a bona fide permanent change of
2 residence to another state or territory; or as provided for by regulations established
3 by the secretary of defense or the Governor of the state, as provided by this title;

4 (4) In compliance with an order of one of the United States courts or a justice or judge
5 thereof on writ of habeas corpus.

6 Section 58. That § 33-5-12 be repealed.

7 ~~— 33-5-12. Whenever an enlisted man is discharged from the national guard prior to the~~
8 ~~expiration of his term of enlistment, the actual cause of discharge shall be stated in the order~~
9 ~~directing the discharge and fully stated on the discharge certificate.~~

10 Section 59. That § 33-5-13 be repealed.

11 ~~— 33-5-13. No enlisted man, lawfully enlisted in the national guard service, shall be discharged~~
12 ~~from such service without a certificate of discharge signed by a field officer of the regiment or~~
13 ~~other organization to which the enlisted man belongs, or by the commanding officer when no~~
14 ~~such field officer is present. A soldier on his discharge from the national guard reserve will be~~
15 ~~given a discharge certificate, signed by the adjutant general of the state.~~

16 Section 60. That § 33-5-14 be repealed.

17 ~~— 33-5-14. Discharge certificates as provided by the department of defense shall be used and~~
18 ~~shall be retained under lock in the personal custody of the company or detachment commander~~
19 ~~and shall be used for the discharge of enlisted men and for no other purpose. Such certificates~~
20 ~~shall be of three classes: for honorable discharge, for discharge, and for dishonorable discharge;~~
21 ~~and shall be used as follows:~~

22 ~~— (1) — The blank for honorable discharge when the soldier's conduct has been such as to~~
23 ~~warrant his re-enlistment and his service has been honest and faithful;~~

24 ~~— (2) — The blank for dishonorable discharge when the soldier has been dishonorably~~

1 ~~discharged by sentence of a court-martial;~~

2 ~~— (3) — The blank for discharge when the soldier is discharged, except as specified in~~
3 ~~subdivisions 33-5-11(1) and (2).~~

4 Section 61. That § 33-5-15 be repealed.

5 ~~— 33-5-15. No member of the national guard who has not returned all public property for~~
6 ~~which he is responsible or made restitution or has otherwise been exonerated may receive an~~
7 ~~honorable discharge, but he shall receive a general discharge under honorable conditions or~~
8 ~~other appropriate type of discharge.~~

9 Section 62. That § 33-5-16 be repealed.

10 ~~— 33-5-16. The discharge of a soldier from the national guard takes effect upon the date of~~
11 ~~notice to him of such discharge, either actual, by delivery of the discharge certificate, or~~
12 ~~constructive, when delivery of discharge cannot be made owing to his absence, or for his own~~
13 ~~convenience or owing to his own fault. If a soldier is absent in desertion when the order for his~~
14 ~~discharge is received, the discharge shall not be executed, but the soldier shall be dropped from~~
15 ~~the rolls as a deserter.~~

16 Section 63. That § 33-5-17 be amended to read as follows:

17 33-5-17. All discharges from the ~~national guard shall be~~ National Guard are subject to the
18 provisions of this title, ~~and such as may hereafter be established by the regulations of the United~~
19 ~~States armed forces and by the rules and regulations adopted by the secretary of defense and by~~
20 the applicable provisions of federal law, and the rules promulgated by the adjutant general
21 pursuant to chapter 1-26.

22 Section 64. That § 33-6-2 be amended to read as follows:

23 33-6-2. No ~~persons~~ person belonging to the military forces ~~shall~~ may be arrested on any civil
24 process while going to, remaining at, or returning from any ~~place at which he may be~~ drill or

1 annual training that the member is required to attend for ~~military~~ duty.

2 Section 65. That § 33-6-3 be amended to read as follows:

3 33-6-3. Any ~~portion of the national guard~~ National Guard unit or personnel performing any
4 duty according to law ~~shall~~ have the right of way in any street or highway through which they
5 may pass; ~~provided the carriage of the United States mails, the legitimate functions of the police,~~
6 ~~and the progress and operations of the fire engines and fire departments shall not be interfered~~
7 ~~with thereby.~~ However, the unit or personnel may not interfere with the legitimate functions of
8 law enforcement personnel or with the progress and operations of fire and rescue, ambulance,
9 and other emergency vehicles.

10 Section 66. That § 33-6-4 be amended to read as follows:

11 33-6-4. ~~When~~ If a civil suit or civil proceedings ~~shall be~~ are commenced in any court by any
12 person against any ~~officer of the national guard of this state~~ member of the South Dakota
13 National Guard for any act done by ~~such officer in his~~ the member in an official capacity in the
14 discharge of any duty under this title, or against any person lawfully acting under authority or
15 order of ~~such officer~~ the member, or by virtue of any warrant issued by ~~him~~ the member
16 pursuant to law, the judge advocate general, or some other officer designated by the Governor,
17 shall appear for ~~him~~ the member, and the plaintiff in ~~such~~ the suit may be required to file
18 security for the payment of the costs that may be incurred by the defendant in ~~such~~ the suit or
19 proceedings. ~~In case~~ If the plaintiff ~~shall be~~ is nonsuited or ~~have~~ if a verdict or judgment is
20 rendered against ~~him~~ the plaintiff, the defendant shall recover double costs and such attorney
21 fees as the court ~~shall allow, which~~ allows. The fees shall in the first instance be paid by the
22 state and refunded by the defendant upon collection of the judgment.

23 Section 67. That § 33-7-6 be amended to read as follows:

24 33-7-6. ~~The adjutant general, subject to the approval of the Governor, may issue state~~

1 ~~transportation to officers of the national guard for the use of schools of instruction, boards of~~
2 ~~survey and examination, the annual convention of the officers of the national guard, and the~~
3 ~~adjutants general; for tours of inspection and instruction, and for the use of the members of the~~
4 ~~national guard when traveling solely on military business. Officers and members of the national~~
5 ~~guard shall be allowed free transportation for themselves and all necessary equipment and the~~
6 ~~property of the federal government and the state, going to and returning from any service~~
7 ~~authorized or directed by law, their subsistence in kind or commutation therefor and their~~
8 ~~quarters, tents, and camp equipment, and the adjutant general and the officers of his department~~
9 ~~shall at all times be prepared to furnish such things as may be required by order of the Governor,~~
10 ~~and all officers and men performing military service for the state shall be entitled to their~~
11 ~~necessary expenses pursuant to § 3-9-2, unless otherwise ordered by the Governor. Any member~~
12 ~~of the National Guard performing state active duty shall be reimbursed for all necessary~~
13 ~~expenses pursuant to § 3-9-2. For purposes of this section, necessary expenses include costs of~~
14 ~~transportation to and from a duty location as directed, subsistence, quarters, and uniform~~
15 ~~maintenance or replacement.~~

16 The adjutant general, on approval of the Governor, may authorize the use of state
17 transportation assets at the adjutant general's disposal for the use of the National Guard on state
18 active duty or to support military schools of instruction, investigations, boards of survey,
19 inspections, annual conventions of the officers and enlisted association of the National Guard,
20 or any other uses deemed necessary for military purposes.

21 Section 68. That § 33-7-7 be amended to read as follows:

22 33-7-7. Every officer or soldier of the national guard wounded or disabled while in active
23 service of the state, or who becomes ill while in such service, shall be taken care of and
24 provided for at the expense of the state until he shall have recovered. Any member of the

1 National Guard who is temporarily injured or who becomes temporarily ill while serving on
2 state active duty shall receive medical care at the expense of the state until cleared to return to
3 the member's regular employment by a medical review board appointed by the adjutant general.
4 The injured or ill member shall remain on state active duty and shall receive full pay and
5 allowances until released by the board.

6 Section 69. That § 33-7-8 be repealed.

7 ~~— 33-7-8. In case an officer or enlisted man of the national guard dies from illness contracted,~~
8 ~~or injury received, or is killed while in active state service his survivors shall receive~~
9 ~~compensation. The amount of compensation or benefits payable shall conform to the general~~
10 ~~schedule of payments provided under Title 38 of the United States Code or acts amendatory~~
11 ~~thereof, and shall be paid from the maintenance fund, on the certificate of a board approved by~~
12 ~~the adjutant general and ordered by the Governor, and the state auditor shall draw his warrant~~
13 ~~on the state treasurer for the same.~~

14 Section 70. That § 33-7-9 be repealed.

15 ~~— 33-7-9. If the disability of the person claiming relief by virtue of § 33-7-8 be a permanent~~
16 ~~disability, to wit: the loss of a hand or part of a hand, or a foot or part of a foot, or a leg, or an~~
17 ~~arm, or of sight, or of hearing, where the damage caused to the person by the disability incurred~~
18 ~~would be a continuous one, depending, for a gross amount, upon the years the person should~~
19 ~~live, the amount to be allowed and paid to the applicant shall be the same allowed monthly by~~
20 ~~the United States pension laws to soldiers of the United States Army for the same injuries and~~
21 ~~paid in like manner every three months from the maintenance fund, on the certificate of a board~~
22 ~~approved by the adjutant general and ordered by the Governor, and the state auditor shall draw~~
23 ~~his warrant on the state treasurer for the same. All claims shall be computed from the date of~~
24 ~~application for relief under the provisions of this chapter.~~

Section 71. That § 33-7-10 be repealed.

~~33-7-10. The Governor, surgeon-general, and secretary of state shall constitute a board to hear and determine all applications for relief that may arise under § 33-7-9 and they may promulgate rules pursuant to chapter 1-26 to govern the introduction of proof in such cases, and in all cases where the disability is not permanent they shall determine by a majority of such board the total amount of money that shall be paid by the state to the applicant in full satisfaction of his claim. The amount so allowed shall be due and payable from the annual maintenance fund of the national guard, and upon the approval of the adjutant general and the order of the Governor, the state auditor shall draw his warrant upon such fund for the amount allowed, and the treasurer shall pay the same.~~

Section 72. That § 33-8-2 be repealed.

~~33-8-2. The uniform provided for by § 33-8-1 shall be furnished by the adjutant general upon requisition of the commanding officer of the company, troop, or battery to which such noncommissioned officer, musician, or private belongs. Such requisition shall be made in duplicate and shall certify the name, age, rank, the date of enlistment, term of service, and measurement of the member for whom the uniform is required; also the number of uniforms already in the possession of the company, troop, or battery, and the number of active members on the roll.~~

Section 73. That § 33-8-3 be repealed.

~~33-8-3. Every uniform furnished pursuant to §§ 33-8-1 and 33-8-2 shall be deposited in the company armory and be in charge of the commanding officer of the company and is never to be worn except in the discharge of military duty.~~

Section 74. That § 33-8-4 be repealed.

~~33-8-4. Uniforms furnished pursuant to §§ 33-8-1 and 33-8-2 shall not be replaced until~~

1 ~~condemned by the inspecting officer, and when condemned shall be disposed of under~~
2 ~~instructions from the secretary of defense of the United States, or the inspector general under~~
3 ~~approval of the Governor, as the case may be.~~

4 Section 75. That § 33-8-5 be amended to read as follows:

5 33-8-5. ~~Whoever shall~~ Any person who intentionally, or through negligence, ~~injure or~~
6 ~~destroy any uniforms~~ injures or destroys any uniform or other property provided for in §§ ~~33-8-1~~
7 ~~and 33-8-2~~ § 33-8-1 and who ~~shall refuse or neglect~~ refuses or neglects to make good such
8 injury or loss, or who ~~shall sell or dispose of the same, shall upon conviction thereof be~~ sells or
9 disposes of the uniform or property, is guilty of a Class 2 misdemeanor.

10 Section 76. That § 33-8-8 be amended to read as follows:

11 33-8-8. ~~Whoever shall wear or use~~ Any person who wears or uses, except in the discharge
12 of military duty or by special permission of ~~his~~ the person's commanding officer, any uniform
13 or other military property, commits a petty offense.

14 Section 77. That § 33-8-9 be repealed.

15 ~~— 33-8-9. It shall be a Class 2 misdemeanor for any person, not an officer or enlisted man of~~
16 ~~the United States Army, Navy, Air Force, Marine Corps, or National Guard to wear the uniform~~
17 ~~lawfully prescribed to be worn by such officer or enlisted man, except as otherwise prescribed~~
18 ~~by the laws of the United States and the rules and regulations of the Department of Defense.~~

19 Section 78. That § 33-9-2 be amended to read as follows:

20 33-9-2. If the Governor ~~be~~ is absent or cannot be immediately communicated with, any civil
21 officer named in § 33-9-1 may, if ~~he~~ the civil officer deems the occasion sufficiently urgent,
22 ~~make such application, which shall be~~ apply electronically, telephonically, or in writing; to the
23 ~~commanding officer of any company, battalion, or regiment of the national guard~~ unit of the
24 National Guard, who may, upon approval ~~of~~ by the adjutant general, if the danger ~~be~~ is great and

1 imminent, order out ~~his command to the order of~~ the unit such South Dakota National Guard
2 members as the commanding officer deems necessary to the assistance of the civil officer.

3 Section 79. That § 33-9-3 be amended to read as follows:

4 33-9-3. ~~An~~ Any order pursuant to § 33-9-1 or 33-9-2 shall be delivered to the commanding
5 officer and ~~by him~~ immediately communicated ~~to each and every~~ by the commanding officer
6 to each subordinate officer, ~~and every~~. Each company commander receiving the ~~same order~~ shall
7 immediately communicate the substance ~~thereof~~ of the order to each member of the company;
8 ~~or if being called to duty. If~~ any such member cannot be found, a notice in writing containing
9 the substance of ~~such~~ the order shall be left at the last and usual place of residence of ~~such~~ the
10 member with some person of suitable age and discretion, to whom its contents shall be
11 explained.

12 Section 80. That § 33-9-4 be amended to read as follows:

13 33-9-4. If any company commander or commissioned officer of the ~~national guard receiving~~
14 National Guard who receives the order provided for in § 33-9-3 ~~shall fail~~ fails to give such
15 notice or ~~fail~~ fails to appear at the time and place ordered, prepared for duty, ~~he~~ the commander
16 or officer shall be cashiered and shall be further punished by fine and imprisonment as a
17 ~~court-martial may adjudge~~ adjudged by a court martial or by other disciplinary action.

18 Section 81. That § 33-9-5 be amended to read as follows:

19 33-9-5. If any enlisted ~~man of the national guard~~ member of the National Guard, after being
20 duly notified pursuant to § 33-9-3, ~~shall refuse or neglect~~ refuses or neglects to appear at the
21 time and place of rendezvous, properly prepared for duty, or ~~fail~~ fails to obey any order issued
22 in such case, ~~he shall be~~ the member is deemed a deserter and is guilty of a Class 2
23 misdemeanor.

24 Section 82. That § 33-9-6 be amended to read as follows:

1 33-9-6. ~~Notwithstanding §§ 33-9-4 and 33-9-5, physical~~ Physical incapacity to perform
2 military service, dangerous sickness in the family of any officer or enlisted ~~man~~ member
3 referred to in ~~said sections §§ 33-9-4 and 33-9-5~~, or absence at the time ~~such~~ the notice was
4 served excuses the member from fault under §§ 33-9-4 and 33-9-5, ~~when such~~ if the absence
5 was not intended to avoid such notice or service, and ~~when he shall join~~ if the officer or member
6 joins the unit for duty on ~~his~~ the officer' or member's return, if ~~his command~~ the unit is still in
7 service, ~~shall excuse such fault~~.

8 Section 83. That § 33-9-8 be amended to read as follows:

9 33-9-8. ~~Whenever an~~ An armed force ~~shall~~ may be called out ~~in the event of~~ to respond to
10 public disaster resulting from flood, conflagration, or tornado, or for the purpose of suppressing
11 any tumult or riot, or for the purpose of dispersing any ~~body of men~~ group of persons that is
12 acting together by force; with intent to commit any felony or to offer violence to persons or
13 property, or that is acting with intent by force or violence to resist or oppose the execution of
14 the laws of this state, ~~such armed force, when they shall arrive~~. Upon arrival at the place of such
15 unlawful, riotous, or tumultuous assembly, the armed force shall obey ~~such~~ any orders by the
16 Governor for suppressing ~~such the~~ riot or tumult or for dispersing and arresting all persons who
17 are committing any of such offenses ~~as they may have received from the Governor, or~~. The
18 armed force shall also obey any such orders from any judge of a court of record, or from the
19 sheriff of the county, and also ~~such~~ any further orders ~~as they there shall receive~~ for such
20 purposes from any two of the magistrates or other officers mentioned in this section.

21 Section 84. That § 33-9-9 be amended to read as follows:

22 33-9-9. ~~If by reason of any of the efforts made by~~ pursuant to § 33-9-8 by, or at the direction
23 of, any of the magistrates or officers mentioned in § 33-9-8, ~~or by their direction~~, to disperse
24 ~~such~~ any unlawful, riotous, or tumultuous assembly, or to seize and secure the persons

1 ~~composing the same who~~ who have assembled and have refused to disperse, though the number
2 remaining may be less than twelve, cause any such person or other persons ~~then~~ present as
3 spectators or otherwise ~~shall~~ to be killed or wounded, such magistrates and officers, and all
4 persons acting by their order and under their direction, ~~shall be~~ are held guiltless and fully
5 justified in law, ~~and if~~. If any of such magistrates or officers or any persons acting by their order
6 or under their direction ~~shall~~ are be killed or wounded, ~~all the persons so~~ any person who is
7 unlawfully, riotously, and tumultuously assembled ~~shall be answerable therefor~~ is answerable
8 for the death or injury in a court of law.

9 Section 85. That § 33-9-10 be amended to read as follows:

10 33-9-10. The commanding officer and members of any of the military forces engaged in the
11 suppression of an insurrection, the dispersion of a mob, or the enforcement of the laws, ~~shall~~
12 have the same immunity as ~~peace~~ law enforcement officers.

13 Section 86. That § 33-10-1 be amended to read as follows:

14 33-10-1. Except in organizations in the service of the United States, courts-martial in the
15 ~~national guard shall be~~ National Guard are of three kinds, ~~namely:~~ general courts-martial,
16 special courts-martial, and summary courts-martial. Such courts ~~shall be~~ are constituted the
17 same and have cognizance of the same subjects and possess the same powers, except as to
18 punishments, as similar courts provided for by the applicable laws and regulations governing
19 the armed forces of the United States, ~~and the~~. The proceedings of courts-martial of the ~~national~~
20 ~~guard~~ National Guard shall follow the forms and modes of procedure prescribed for such similar
21 courts.

22 Section 87. That § 33-10-3 be amended to read as follows:

23 33-10-3. ~~In the national guard,~~ The commanding officer of any National Guard unit not in
24 the service of the United States, ~~the commanding officer of each garrison, fort, post, camp,~~

1 ~~brigade, regiment, wing, group, battalion, or other detached command,~~ may convene special or
2 summary courts-martial for ~~such command~~ the unit if ~~such command calls for~~ the unit
3 commander is required to be an officer of the rank of at least lieutenant colonel and if the
4 convening authority holds the rank of lieutenant colonel or higher. However, such courts-martial
5 may in any case be convened by superior authority. Special or summary courts-martial may try
6 any member of the ~~national guard~~ National Guard not in the service of the United States, except
7 a commissioned officer. The special or summary courts-martial ~~shall~~ have the same powers of
8 punishment as do general courts-martial, except as limited by the Uniform Code of Military
9 Justice in effect on January 1, ~~1990~~ 2007, and the South Dakota manual for courts-martial. No
10 special court-martial may ~~impose a fine of more than one hundred dollars for a single offense~~
11 ~~or impose a dishonorable discharge.~~ No summary court-martial may ~~impose a fine of more than~~
12 ~~twenty-five dollars for a single offense or discharge or dismiss any member from the national~~
13 ~~guard~~ National Guard.

14 Section 88. That § 33-10-4 be amended to read as follows:

15 33-10-4. All courts-martial of the national guard, not in the service of the United States,
16 including summary courts, ~~shall have power to~~ may sentence to confinement in lieu of fines
17 authorized to be imposed. ~~Such~~ No such sentence of confinement ~~shall not~~ may exceed one day
18 for each dollar of fine authorized.

19 Section 89. That § 33-10-5 be amended to read as follows:

20 33-10-5. The constitution and jurisdiction of courts-martial, the form and manner in which
21 the proceedings of military courts ~~shall be~~ are conducted and recorded, the forms of oaths and
22 affirmations taken in the administration of military law by such courts, and the limits of
23 punishment and the proceedings in revision ~~shall be~~ are governed by the Uniform Code of
24 Military Justice, 10 U.S.C. § 801 et seq., in effect on January 1, ~~1990, the manual for~~

1 ~~courts-martial of the United States in effect on January 1, 1990~~ 2007, and the South Dakota
2 manual for courts-martial ~~established by executive order of the Governor.~~

3 Section 90. That § 33-10-6 be amended to read as follows:

4 33-10-6. The articles of the Uniform Code of Military Justice, in effect on January 1, 2007,
5 and the manual for courts-martial of the United States, in effect on January 1, ~~1990~~ 2007,
6 governing the armed forces of the United States, so far as they are compatible with the
7 provisions of this chapter and the South Dakota manual for courts-martial, are adopted for the
8 government of the ~~national guard~~ National Guard and militia of this state.

9 Section 91. That § 33-10-7 be amended to read as follows:

10 33-10-7. Commanding officers of the ~~national guard~~ National Guard may impose
11 nonjudicial punishment as provided in the Uniform Code of Military Justice of the United States
12 in effect on January 1, ~~1990~~ 2007, and the South Dakota manual for courts-martial.

13 Section 92. That § 33-10-10 be amended to read as follows:

14 33-10-10. The warrant authorized by § 33-10-9 shall be directed to the sheriff or any
15 constable or marshal of ~~any such~~ the county, or the officer attending the court, and shall set forth
16 the circumstances of the offense adjudged to have been committed; ~~and~~. The warrant shall
17 command the officer to whom it is directed to ~~take the body of such person and commit him to~~
18 ~~the jail of the county, there to~~ commit the offender to the county jail. The offender shall remain
19 without bail and in close confinement for a limited time, not to exceed three days, and until the
20 officer's fees for committing and the jailer's fees ~~be~~ are paid. ~~Such~~ The sheriff shall obey the
21 warrant and keep the person as directed, unless ~~he~~ the person is discharged by a judge of a court
22 of record in the same manner and under the same rules as in cases of imprisonment under
23 process of contempt from a court of competent jurisdiction.

24 Section 93. That § 33-10-11 be amended to read as follows:

1 33-10-11. No sentence of dismissal from the service or dishonorable discharge, imposed by
2 a ~~national guard~~ National Guard court-martial, not in the service of the United States, ~~shall~~ may
3 be executed until approved by the Governor ~~of the state~~.

4 Section 94. That § 33-10-12 be amended to read as follows:

5 33-10-12. A military court sitting in any county shall be attended by the county sheriff ~~of~~
6 ~~the same~~, or some suitable person designated by ~~him~~ the sheriff, who shall be the marshal of the
7 court and perform the usual duties of such marshals; ~~and~~. The marshal shall execute any process
8 lawfully issued by ~~such~~ the court and perform all acts and duties by this chapter imposed on; and
9 authorized to be performed by any sheriff, marshal, or constable; ~~and the~~. The officer ordering
10 the court shall furnish a copy of ~~his~~ the order to the sheriff of the county where the court is
11 directed to meet, ~~which~~. The order ~~shall be~~ constitutes notice to the sheriff to appear or
12 designate someone as marshal of the court.

13 Section 95. That § 33-10-14 be amended to read as follows:

14 33-10-14. Refusal or neglect ~~on the part of~~ by the sheriff or marshal to execute any warrant
15 required in § 33-10-12 or ~~make~~ to return and pay ~~over~~ all the money collected as fines, ~~shall~~
16 ~~subject the officer so offending~~ subjects the offending sheriff or marshal to double the amount
17 of such fines and penalties. The conversion to ~~his own~~ personal use of moneys so collected by
18 any sheriff or marshal ~~shall be deemed~~ is theft; and ~~punished~~ shall be prosecuted as such in any
19 court of the state having jurisdiction in such cases.

20 Section 96. That § 33-10-15 be amended to read as follows:

21 33-10-15. For the purpose of collecting fines imposed by courts-martial, the president of the
22 court shall, within twenty days after the proceedings of the court have been approved, make a
23 list of all persons fined, describing them distinctly; and showing the fine imposed on each
24 person and not paid. ~~He~~ The president of the court shall then draw ~~his~~ an official warrant,

1 directed to the sheriff of the county or the marshal of the court, commanding ~~him~~ the sheriff or
2 marshal to levy ~~such~~ a fine, together with the costs, on the goods and chattels of the delinquent
3 as provided by chapter 15-19. ~~Such fines when collected shall be deposited by the adjutant~~
4 ~~general~~ The adjutant general shall deposit the fine in the special militia fund.

5 Section 97. That § 33-10-16 be amended to read as follows:

6 33-10-16. No action ~~shall~~ may be maintained against any member of a military court on
7 account of the imposition of a fine or penalty, or for the execution of a sentence on any person,
8 if ~~such person shall have~~ the person has been returned as delinquent and duly summoned before
9 ~~such~~ the court, or ~~shall have~~ has appeared before ~~such~~ the court to answer the charge made
10 against ~~him~~ the person.

11 Section 98. That § 33-10-18 be amended to read as follows:

12 33-10-18. The commanding officer at any encampment, parade, drill, muster, annual
13 training, or other rendezvous of the ~~national guard may cause those under his command~~ National
14 Guard may order subordinates to perform any lawful military duty ~~he may require, and. The~~
15 commanding officer may place in arrest during the time of such meeting, and confine under
16 guard, if necessary, any officer or enlisted ~~man who shall disobey the orders of his~~ member who
17 disobeys the orders of a superior officer or in any way ~~interrupt~~ interrupts the training or
18 exercises, and. The commanding officer may remove any other person or ~~persons who shall~~
19 ~~trespass~~ who trespasses on the parade ground or armory, or in any way ~~interrupt~~ interrupts the
20 orderly discharge of duty of ~~those under arms~~ any National Guard member.

21 Section 99. That § 33-11-1 be amended to read as follows:

22 33-11-1. The ~~commanding officer of each company, troop, or battery of the national guard,~~
23 ~~and the treasurer of each regimental band;~~ adjutant general shall provide a suitable ~~room or~~
24 rooms space, at a convenient ~~place in the municipality where such organization is located or~~

1 location where any unit of the National Guard is stationed, with the necessary furniture, fuel,
2 light, drawers, lockers, closets, and gun racks; furnishings, equipment, and supplies for an
3 armory, assembly, drill room, garages, and maintenance shops for such the organization; and
4 such. The buildings, room, or rooms shall be and space are under the exclusive control of the
5 unit's commanding officer. There shall be paid out of the military appropriation ~~such sum as~~
6 ~~shall be a sum~~ deemed necessary on the contract made by the adjutant general for the rent and
7 furnishing of ~~such the~~ armory, garages, maintenance shops, or band quarters of each
8 organization of the ~~national guard~~ National Guard, to be paid by the state.

9 Section 100. That § 33-11-2 be amended to read as follows:

10 33-11-2. The Department of Military and Veterans Affairs ~~is hereby empowered and~~
11 ~~directed to~~ shall erect or provide anywhere within the limits of this state, upon ~~such~~ terms and
12 conditions ~~as shall be decided upon~~ determined by the Board of Military Affairs created by § 33-
13 1-17 as most advantageous to the state, armories and other facilities for the use of the ~~national~~
14 ~~guard, which~~ National Guard. The armories and other facilities shall be used for drill, meeting,
15 and rendezvous purposes by the ~~organization unit~~ occupying ~~the same, and them and for~~ such
16 other public functions as the officers in charge of ~~such the~~ armory or facility ~~may~~ deem
17 advisable and proper, ~~and which. The armories and other facilities, if not in use by the National~~
18 Guard, shall also be open for meetings and functions of organizations of war veterans; and their
19 auxiliary organizations.

20 Section 101. That § 33-11-4 be amended to read as follows:

21 33-11-4. The buildings referred to in § 33-11-3 shall be ~~such as are~~ suitable for use as
22 armories or other facilities by ~~and for the national guard and to be used as such; and the National~~
23 Guard. The buildings shall also be suitable for use by ~~the~~ a cooperating public corporation or
24 ~~corporations or agencies~~ agency for the same ~~purpose purposes~~ as a building ~~or buildings which~~

1 ~~such corporation or corporations or agencies are~~ that the corporation or agency is authorized by
2 law to construct for its own exclusive use; and shall be used for such ~~purpose or~~ purposes.

3 Section 102. That § 33-11-6 be amended to read as follows:

4 33-11-6. The Department of Military and Veterans Affairs ~~shall also have the power to~~ may
5 receive from counties, municipalities, or other sources, donations of land or contributions of
6 money, buildings, or other property; to aid in providing or erecting armories and other facilities
7 throughout the state for the use of the ~~national guard and which~~ National Guard. The property
8 shall be held as other property for the use of the state.

9 Section 103. That § 33-11-7 be amended to read as follows:

10 33-11-7. Counties or municipalities ~~are hereby authorized to make contributions of~~ may
11 contribute land, money, buildings, or other property for the purposes of this chapter, ~~and each~~
12 ~~. Any first or second class municipality of the state is hereby authorized and empowered to~~ may
13 levy a tax upon all property ~~therein~~ within the municipality subject to taxation to raise the
14 necessary money for ~~such an~~ armory building or other facility and site; ~~provided that. However,~~
15 no money ~~shall~~ may be donated or tax levied until the ~~same~~ donation or levy is authorized by
16 a vote of a majority of the electors in ~~such the~~ municipality at an election called for that purpose.

17 Section 104. That § 33-11-8 be amended to read as follows:

18 33-11-8. The Department of Military and Veterans Affairs ~~is authorized and directed~~ shall,
19 upon donation of a proper site by any county or municipality, ~~to erect for the use of a company,~~
20 ~~battery, troop, battalion, or regimental organization of the national guard~~ any unit of the
21 National Guard, and other organizations and public functions as specified in § 33-11-2, an
22 armory to be used for meeting, rendezvous, drill, and other purposes in compliance with this
23 chapter, ~~and in which shall be stored the ordnance stores and quartermaster stores and other~~
24 ~~property issued to the organization occupying such armory.~~

Section 105. That § 33-11-9 be amended to read as follows:

33-11-9. ~~When any armory is erected or provided pursuant to § 33-11-8, the~~ The Department of Military and Veterans Affairs ~~shall have charge thereof and~~ has charge of any armory erected or provided pursuant to § 33-11-8 and shall arrange for its occupancy and use under the direction and responsibility of the senior officer in command ~~of such company, battery, troop, battalion, or regimental organization.~~

Section 106. That § 33-11-10 be amended to read as follows:

33-11-10. The Board of Military Affairs ~~shall also constitute~~ also constitutes a board for general management and care of armories ~~when established.~~ The board may promulgate rules pursuant to the provisions of chapter 1-26 for armory management and government and to provide for the guidance of the organization occupying them ~~as may be necessary and desirable, such rules to.~~ The rules, in accordance with federal law and regulation, shall provide:

- (1) Standards and requirements for construction or lease of armory facilities and related furnishings of such facilities;
- (2) Standards and requirements for construction or lease of facilities, other than armories, and related furnishings as required by § 33-11-1;
- (3) Procedures to enter into cooperative agreements with other public agencies pursuant to § 33-11-3;
- (4) Procedures and standards to receive contributions of land, money, buildings, or other property pursuant to § 33-11-6; and
- (5) Standards and procedures ~~of governing~~ revenue producing activities undertaken pursuant to § 33-11-12.

Section 107. That § 33-12-1 be amended to read as follows:

33-12-1. The adjutant general ~~shall also be~~ is also quartermaster general. ~~The Office of the~~

1 ~~Quartermaster General~~ office of the quartermaster general shall be maintained at ~~such a~~ place
2 within the state as the Governor ~~may direct, and if~~ directs. If the office of the quartermaster
3 general is maintained at a place other than that where the ~~Office of the Adjutant General~~ office
4 of the adjutant general is established, the quartermaster general is entitled to ~~hotel~~
5 reimbursement of expenses while incurred in the performance of ~~his~~ official duties at either ~~one~~
6 ~~point or the other, and~~ location and to traveling expenses ~~while going to or returning therefrom~~
7 pursuant to § 3-9-2.

8 Section 108. That § 33-12-2 be amended to read as follows:

9 33-12-2. As quartermaster general, the adjutant general may require ~~his assistants~~ any duly
10 appointed assistant, who shall be ~~members~~ a member of the ~~national guard~~ National Guard, to
11 give ~~bonds~~ a bond with sufficient ~~sureties~~ surety, in ~~such~~ an amount as ~~he shall deem~~ the
12 quartermaster general deems sufficient, to the state; The bond shall be conditioned for the
13 faithful performance of ~~their~~ duty; ~~such bonds to~~ and shall be approved by ~~him~~ the quartermaster
14 general, recorded in the Office of the Secretary of State, and filed with the state treasurer.

15 Section 109. That § 33-12-4 be amended to read as follows:

16 33-12-4. The adjutant general ~~shall be~~ is the custodian of all flags and colors of South
17 Dakota troops engaged in any war, and shall provide for their care and custody as the Governor
18 ~~may direct, he shall also have~~ directs. The adjutant general also has charge of all regimental
19 flags and colors of the militia of the state when not in use.

20 Section 110. That § 33-12-5 be amended to read as follows:

21 33-12-5. The adjutant general ~~shall have~~ has supervision of and ~~be~~ is responsible for all the
22 arms, ordnance, accouterments, equipment, and other military property ~~which may be~~ that is
23 issued to the state by the secretary of defense in compliance with law; ~~and it shall be his duty~~
24 to. The adjutant general shall prepare returns of such arms and other property of the United

States at all times and in the manner requested by the secretary of defense.

Section 111. That § 33-12-6 be amended to read as follows:

33-12-6. The adjutant general shall issue ~~such~~ military property as the Governor ~~shall direct~~ directs and under ~~his~~ the Governor's direction shall make purchases for that purpose. ~~No military~~ Military property ~~shall~~ may only be issued to persons or organizations ~~other than those~~ belonging to the organized militia ~~except to such portions of the national guard reserve as may be called out by the Governor.~~

Section 112. That § 33-12-7 be amended to read as follows:

33-12-7. The adjutant general shall upon order of the Governor turn in to the armed forces of the United States ~~the rifles, bayonets, bayonet scabbards, gun slings, belts, and such other necessary accouterments and equipment,~~ any weapons, equipment, and accouterments that are the property of the United States in possession of the state, ~~which may be replaced, from time to time,~~ and that are to be replaced by new ~~arms or equipment~~ weapons, equipment and accouterments sent by the United States ~~in substitution therefor, and.~~ The adjutant general shall cause the ~~same~~ weapons, equipment, and accouterments to be shipped under instructions from the secretary of defense to the designated arsenal or depot at the expense of the United States. ~~And when the national guard of the state shall be~~ If the South Dakota National Guard is fully armed and equipped with standard weapons, equipment, and accouterments of the United States armed forces, ~~he~~ the adjutant general shall cause any remaining ~~arms or equipment,~~ weapons, equipment, and accouterments that are the property of the United States and in possession of the state, to be transferred and shipped, as ~~above~~ directed in this section, under instructions from the secretary of defense.

Section 113. That § 33-12-8 be amended to read as follows:

33-12-8. ~~At~~ Any military property of the state which, after a proper inspection, ~~shall be~~ is

1 found unsuitable for the use of the state shall, under direction of the Governor, be disposed of
2 by the quartermaster general at public auction or private sale, ~~after suitable advertisement of.~~
3 The sale shall be advertised at least once each week for two successive weeks, in at least one
4 legal newspaper published in the first or second class municipality or county where ~~such the~~ sale
5 is to take place, ~~when~~ if so ordered by the Governor. ~~He~~ The quartermaster general shall bid in
6 the property or suspend the sale ~~whenever, in his~~ if, in the quartermaster general's opinion, better
7 prices may or should be obtained. ~~He shall, from time to time,~~ The quartermaster general shall
8 periodically render to the Governor ~~a just and true~~ an accurate account of the sales so made and
9 deposit the proceeds with the state treasurer to the credit of the special militia fund.

10 Section 114. That § 33-12-9 be amended to read as follows:

11 33-12-9. The commanding officer ~~for the time being of any unit of the National Guard~~ is the
12 legal custodian of the money, property, and effects of ~~any company, band, regiment, or brigade~~
13 ~~of the national guard~~ the unit, whether ~~such the~~ property is owned by ~~such company, band,~~
14 ~~regiment, or brigade~~ the unit, or its members collectively, or has been issued to it or any of its
15 officers, for its use, by the state or by the authority of the United States, ~~and.~~ The commanding
16 officer may sue for the recovery and possession of ~~the same, whenever~~ any such property that
17 is wrongfully withheld from ~~his~~ the commanding officer's custody or the custody of the
18 ~~company, band, regiment, or brigade~~ unit.

19 Section 115. That § 33-12-10 be amended to read as follows:

20 33-12-10. Every officer or other person having custody or control of the military property
21 of the United States or of the state; shall ~~from time to time~~ periodically make a return of the
22 ~~same in such property on a~~ form and to ~~such the appropriate~~ department as ~~the law and the rules~~
23 ~~and regulations may require~~ required by law.

24 Section 116. That § 33-12-11 be amended to read as follows:

1 33-12-11. ~~Whenever any national guard~~ If any National Guard officer responsible for state
2 property ~~shall resign, be promoted~~ resigns or is reassigned, dismissed, or discharged, ~~he the~~
3 officer shall deliver the ~~quartermaster and ordnance stores in his~~ property in the officer's
4 possession, for which ~~he only~~ the officer is responsible, to the quartermaster general, or to some
5 person duly appointed to receive the same, ~~who shall give such bond for its safekeeping while~~
6 ~~in his possession as the Governor may direct, and take duplicate receipts therefor, one of which~~
7 ~~he shall file with the quartermaster general. A discharge shall not be issued until such officer~~
8 ~~has received certificate of nonindebtedness from the quartermaster general. His successor in~~
9 ~~office shall, before receiving such property, execute and file a bond as provided in § 33-12-13~~
10 property.

11 Section 117. That § 33-12-12 be amended to read as follows:

12 33-12-12. In case of the death of any officer of the ~~national guard~~ National Guard
13 responsible for state property the next in command shall immediately take charge of ~~such~~
14 ~~quartermaster and ordnance stores and supplies and deliver the same~~ the property and deliver
15 it to the quartermaster general or some person appointed to receive the same; ~~or, if~~
16 ~~commissioned in place of such decedent, he shall execute and file a like bond, and give~~
17 ~~duplicate receipts therefor, one of which he shall file as provided by § 33-12-13~~ property.

18 Section 118. That § 33-12-13 be repealed.

19 ~~33-12-13. Each commanding officer to whom United States or state military property is~~
20 ~~issued shall execute to the state a bond, with such sureties and in such form as the Governor~~
21 ~~shall approve, and in a sum to be determined by the Governor, conditioned for the faithful~~
22 ~~preservation and care of all such arms, accouterments, money, or stores as shall be by him~~
23 ~~received, to indemnify the state against loss by misuse or misapplication of any part thereof by~~
24 ~~himself or any other person; to account for all of the same according to law, and to deliver the~~

1 same to any officer lawfully entitled thereto, on demand, and to pay all sums lawfully appraised
2 for losses or damages.

3 Section 119. That § 33-12-14 be repealed.

4 ~~33-12-14. The adjutant general, with the approval of the Governor, may obtain and pay for,~~
5 ~~out of the annual military appropriation, an adequate indemnity bond to be filed with the~~
6 ~~secretary of state, covering all of the officers of the South Dakota National Guard responsible~~
7 ~~to the United States or the State of South Dakota for money and military property, and a similar~~
8 ~~bond covering the property and disbursing officer for South Dakota, which bond will be filed~~
9 ~~with the secretary of defense.~~

10 Section 120. That § 33-12-15 be repealed.

11 ~~33-12-15. Upon the execution of a bond pursuant to § 33-12-13 the quartermaster general~~
12 ~~shall issue such arms, accouterments, and stores as the Governor shall by order direct, which~~
13 ~~shall be as nearly as possible like those in use in the armed forces of the United States.~~

14 Section 121. That § 33-12-16 be amended to read as follows:

15 33-12-16. All military supplies issued to any officer of the ~~national guard shall be~~ National
16 Guard are at all times subject to inspection by ~~the inspector general, chief of ordnance, or any~~
17 officer designated by the Governor for that purpose, who shall report the true condition ~~thereof~~
18 of the supplies. The Governor may at any time require repairs to be made or defects or losses
19 supplied.

20 Section 122. That § 33-12-17 be amended to read as follows:

21 33-12-17. The clothing, arms, military outfits, accouterments, and stores furnished by the
22 State of South Dakota or the United States to the ~~national guard shall~~ National Guard may not
23 be sold, bartered, exchanged, pledged, ~~loaned~~, or given away, and the possession of any such
24 property by any person not a member of the ~~guard shall be~~ National Guard is prima facie

1 evidence of such sale, barter, exchange, pledge, ~~loan~~, or theft. ~~Such~~ The property may be seized
2 and taken from any person not authorized to keep the ~~same~~, property by any soldier, officer,
3 civil or military, of the state, ~~and shall thereupon~~. The property shall then be delivered to any
4 officer of the state authorized to receive the ~~same~~ property.

5 Section 123. That § 33-12-18 be amended to read as follows:

6 33-12-18. ~~All the~~ Any property of the state that ~~may be~~ is lost, stolen, damaged, or destroyed
7 in the military service shall be acted upon by a disinterested inspector or officer, detailed as
8 such, who shall make full investigation and report all the facts and circumstances of the case;
9 ~~and if~~. If any person is found or deemed responsible for the loss or damage of the property,
10 beyond reasonable wear and tear of the service, the inspector shall assess and fix a reasonable
11 value on the property lost, damaged, or destroyed, and ~~such~~ the person shall pay the sum so
12 assessed into the treasury of the state. ~~And in the event of such person's failure or neglect~~ If the
13 person fails or neglects to reimburse the state, suit may be entered in the name of the state in any
14 court of competent jurisdiction for the recovery of the ~~same~~, under rules promulgated pursuant
15 to chapter 1-26 value of the property.

16 Section 124. That § 33-12-19 be amended to read as follows:

17 33-12-19. The Governor may, at any time, convene a board of survey to condemn
18 quartermaster and ordnance stores and supplies, or to appraise the loss sustained by the state
19 from injury, want of repair, defects, or losses in any such quartermaster or ordnance stores
20 issued to any officer of the ~~national guard~~, which National Guard. The board, after reasonable
21 notice to ~~him~~ the officer and hearing ~~his~~ the officer's explanations or objections, shall appraise
22 the ~~same~~ property and make a report, ~~and the~~. The amount so appraised, ~~when~~ if approved by
23 the Governor, ~~shall be~~ is conclusively deemed the amount of ~~such~~ the officer's liability ~~on his~~
24 ~~bond therefor up to the date of such report; and he shall be compelled to pay the same.~~ The

1 officer shall pay the amount into the state treasury, ~~such payments to be placed by the state~~
2 ~~treasurer~~ and the payments shall be deposited in a special fund ~~to be~~ known as the lost military
3 property fund, ~~which fund shall at all times be available.~~ The fund is available at all times for
4 purchase by the quartermaster general, subject to the approval of the Governor, of any military
5 property needed to replace that lost or destroyed.

6 Section 125. That § 33-12-20 be amended to read as follows:

7 33-12-20. The Governor shall cause suit to be brought whenever necessary to make good
8 any injury, want of repair, or loss of any quartermaster or ordnance stores or supplies or other
9 state property, ~~but if.~~ However, if any such stores or property belonging to the state ~~shall be~~ are
10 lost, destroyed, or damaged without the fault or neglect of the officer responsible for the ~~same,~~
11 ~~such stores or property, the~~ officer and sureties may, by order of the Governor, on the report of
12 a board of survey or other satisfactory proof, be relieved of all liability ~~therefor~~ for the stores
13 or property.

14 Section 126. That § 33-12-21 be amended to read as follows:

15 33-12-21. All property belonging to any organization of the ~~national guard shall be~~ National
16 Guard is exempt from taxation or assessment for any purpose ~~whatever.~~

17 Section 127. That § 33-12-23 be amended to read as follows:

18 33-12-23. ~~Every~~ Any unauthorized person who enters any fort, magazine, arsenal, armory,
19 arsenal yard, or encampment, and ~~seizes or takes away~~ removes any arms, ammunition, military
20 stores, or supplies belonging to the ~~people of this state, and every~~ National Guard, and any
21 unauthorized person who enters any such place with intent to ~~do so~~ remove such property, is
22 guilty of a Class 4 felony.

23 Section 128. That § 33-12-24 be amended to read as follows:

24 33-12-24. No officer of the ~~national guard~~ National Guard, except the adjutant general, ~~shall~~

1 ~~may~~ incur any expenses ~~whatsoever~~ to be paid by the state, except ~~such as~~ expenses that are
2 authorized by this title.

3 Section 129. That § 33-12-25 be amended to read as follows:

4 33-12-25. The adjutant general shall keep ~~a just and true~~ an accurate account of all
5 expenditures necessarily made for the military service of the state ~~and such accounts~~. The
6 account shall be paid on proper vouchers ~~being~~ presented for the ~~same~~ account and upon the
7 approval of the adjutant general from the appropriations made by the Legislature for military
8 purposes, ~~except as otherwise provided in this title~~.

9 Section 130. That § 33-12-26 be amended to read as follows:

10 33-12-26. The adjutant general shall keep ~~a just and true~~ an accurate account of all expenses
11 necessarily incurred, including pay of officers and enlisted men, subsistence and transportation
12 of the ~~national guard~~ National Guard and of all military property of the state, ~~and such~~. The
13 expenses shall be audited and paid in the same manner as other military accounts are audited
14 and paid. ~~The adjutant general and the officers of the national guard shall make such returns to~~
15 ~~the secretary of defense, or to such officers as he may designate, at such times and in such forms~~
16 ~~as the secretary of defense may from time to time prescribe.~~

17 Section 131. That § 33-12-27 be amended to read as follows:

18 33-12-27. The adjutant general shall audit and pass upon all claims of military character
19 against the state, and no military contract ~~of a military nature~~ against the state ~~shall be~~ is valid
20 or may be paid until approved by ~~him~~ the adjutant general, except such as are contracted by the
21 Governor. In extreme emergencies, however, the commanding officer of any organization or
22 detachment of the ~~national guard~~ National Guard, ordered into active service of the state, may
23 ~~make purchases of such~~ purchase necessities ~~as are absolutely required~~ for the immediate use
24 and care of ~~his~~ the officer's command; ~~a report of such action~~. A report of the purchases

1 containing a statement of the articles purchased and the price thereof, ~~must be made forthwith~~
2 shall be made as soon as possible through the proper channels to the adjutant general, ~~and upon~~
3 ~~approval thereof.~~ Upon the adjutant general's approval of the report, the purchases shall be paid
4 out of any funds in the state treasury not otherwise appropriated.

5 Section 132. That § 33-12-28 be amended to read as follows:

6 33-12-28. The provisions of chapters 5-18, 5-19 and 5-21, governing contracts by public
7 corporations ~~shall~~, apply to contracts and purchases by the adjutant general and the Department
8 of Military and Veterans Affairs, ~~except.~~ However, in case of insurrection, invasion, tumult, riot,
9 breach of the peace, ~~or~~ imminent danger thereof, or other great emergency, the Governor may
10 upon the certificate of the adjutant general temporarily suspend the operation of law and direct
11 the quartermaster general to purchase in the open market ~~such~~ any necessary military property
12 or supplies ~~as may be required.~~ The adjutant general shall report to the Governor the amount of
13 property and supplies purchased and the prices paid ~~therefor.~~

14 Section 133. That § 33-12-29 be amended to read as follows:

15 33-12-29. Funds appropriated by the Legislature for the maintenance of the ~~national guard~~
16 National Guard shall be known as the general militia fund. Expenditures from the general militia
17 fund ~~shall~~ may be made only upon vouchers certified by the adjutant general and approved by
18 the Governor, upon warrants drawn by the state auditor against the state treasury in the manner
19 required by law.

20 Section 134. That § 33-12-31 be amended to read as follows:

21 33-12-31. The special militia fund ~~shall be~~ is available for ~~national guard~~ National Guard
22 purposes only and ~~shall be~~ is accumulative from year to year. Expenditures from this fund shall
23 be made in the usual manner upon vouchers approved by the Governor, after proper certification
24 by the adjutant general, by warrant drawn by the state auditor against the state treasury as ~~now~~

1 ~~or hereafter may be provided by law, but shall.~~ However, such expenditures do not come within
2 any restrictions governing payment of expenses incurred in a previous year, it being the intent
3 to permit the application of the. The special militia fund may be used to the discharge of any just
4 or lawful debt properly contracted for national guard National Guard purposes, whether of the
5 ensuing or previous fiscal years.

6 Section 135. That § 33-12-33 be amended to read as follows:

7 33-12-33. ~~In case any organization of the national guard shall erect or purchase~~ If any
8 organization of the National Guard erects or purchases an armory or assembly room, the annual
9 rent of the ~~same~~ armory or assembly room as authorized by this title, or allowed by the
10 Governor, shall be paid into the treasury of ~~such~~ the organization.

11 Section 136. That § 33-13-7 be amended to read as follows:

12 33-13-7. Any civilian technician of the South Dakota Army or Air National Guard who is
13 paid entirely from federal funds ~~shall be entitled to~~ may authorize the federal disbursing officer
14 to withhold sums of money from the pay of ~~said~~ the employee and to pay the ~~same~~ money to the
15 State of South Dakota or to the person or organization designated by the employee for the
16 purpose of paying the ~~employees~~ employee's contribution to a retirement, disability, or death
17 benefit plan.

18 Section 137. That § 33-13-8 be amended to read as follows:

19 33-13-8. ~~Section~~ Any payment made to the State of South Dakota pursuant to § 33-13-7
20 ~~shall be~~ is considered as state sponsorship, but the expenditure of any state funds in connection
21 ~~herewith~~ with activities authorized by § 33-13-7 is prohibited.

22 Section 138. That § 33-14-1 be amended to read as follows:

23 33-14-1. The Governor ~~is hereby authorized, in his discretion, to~~ may organize and maintain
24 within this state such military forces as ~~he may deem~~ the Governor deems necessary to protect

1 life and property in this state. Such forces ~~shall be~~ are additional to and distinct from the
2 ~~national guard~~ National Guard and ~~shall be~~ are known as the South Dakota State Guard.

3 Section 139. That § 33-14-3 be amended to read as follows:

4 33-14-3. For the use of the South Dakota State Guard, the Governor ~~is hereby authorized~~
5 ~~to~~ may requisition from the Department of the Army ~~such any~~ any arms and equipment ~~as may be~~
6 ~~in possession of and can be spared by the department of the army and to~~ that are available. The
7 Governor may make available to ~~such forces~~ the South Dakota State Guard the facilities of state
8 armories and their equipment and such other state premises and property as ~~may be~~ are
9 available.

10 Section 140. That § 33-14-4 be amended to read as follows:

11 33-14-4. All appropriations made to the ~~national guard~~ shall be National Guard are deemed
12 to have been appropriated to both the ~~national guard~~ National Guard and the South Dakota State
13 Guard.

14 Section 141. That § 33-14-6 be amended to read as follows:

15 33-14-6. The South Dakota State Guard ~~shall not be~~ is not required to serve outside the
16 boundaries of this state except as provided by § 33-14-7.

17 Section 142. That § 33-14-7 be amended to read as follows:

18 33-14-7. Any organization, unit, or detachment of the South Dakota State Guard, upon order
19 of the officer in immediate command ~~thereof~~ of the organization, unit, or detachment, may
20 continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the
21 borders of this state into another state until they are apprehended or captured by ~~such~~ the
22 organization, unit, or detachment or until the military or police forces of the other state or the
23 forces of the United States have had a reasonable opportunity to take up the pursuit or to
24 apprehend or capture such persons: ~~provided, such.~~ However, no such pursuit beyond state

1 ~~borders may be undertaken unless the~~ other state ~~shall have~~ has given authority by law for such
2 pursuit by ~~such the~~ forces of this state. Any such person who ~~shall be~~ is apprehended or captured
3 in ~~such the~~ other state by an organization, unit, or detachment of the forces of this state shall
4 without unnecessary delay be surrendered to the military or police forces of the state in which
5 ~~he the person~~ is taken or to the United States, ~~but such.~~ However, such a surrender ~~shall~~ does
6 not constitute a waiver by this state of its right to extradite or prosecute ~~such the~~ person for any
7 crime committed in this state.

8 Section 143. That § 33-14-8 be amended to read as follows:

9 33-14-8. No civil organization, society, club, post, order, fraternity, association,
10 brotherhood, body, union, league, or other combination of persons or civil group ~~shall~~ may be
11 enlisted in the South Dakota State Guard as an organization or unit.

12 Section 144. That § 33-14-9 be amended to read as follows:

13 33-14-9. No person ~~shall~~ may be commissioned or enlisted in the South Dakota State Guard
14 who is not a citizen of the United States or who has been expelled or dishonorably discharged
15 from any military or naval organization of this state, or of another state, or of the United States.

16 Section 145. That § 33-14-11 be amended to read as follows:

17 33-14-11. No person ~~shall~~ may be enlisted in the South Dakota State Guard for more than
18 one year, but such enlistment may be renewed. The oath to be taken upon enlistment in ~~such~~
19 ~~forces the South Dakota State Guard~~ shall be substantially in the form prescribed for enlisted
20 ~~men of the national guard~~ members of the National Guard, substituting the words South Dakota
21 State Guard where necessary.

22 Section 146. That § 33-14-14 be amended to read as follows:

23 33-14-14. ~~Whenever~~ If the South Dakota State Guard or any part ~~thereof shall be~~ of the
24 South Dakota State Guard is ordered out for active service, the Uniform Code of Military Justice

1 of the United States applicable to members of the ~~national guard of this state~~ South Dakota
2 National Guard in relation to courts-martial, their jurisdiction~~and,~~ the limits of punishment,
3 and the rules and regulations prescribed ~~thereunder shall be~~ under the Uniform Code of Military
4 Justice applicable to the South Dakota National Guard are in full force and effect with respect
5 to the South Dakota State Guard.

6 Section 147. That § 33-14-15 be amended to read as follows:

7 33-14-15. Nothing in this chapter ~~shall be construed as authorizing~~ authorizes any part of
8 the South Dakota State Guard, ~~or any part thereof~~ to be called, ordered, or in any manner
9 drafted; as such into the military service of the United States, ~~but no.~~ However, no person shall
10 by reason of ~~his~~ the person's enlistment or commission in any such forces may be exempted
11 from military service under any law of the United States.

12 Section 148. That § 33-14-16 be amended to read as follows:

13 33-14-16. No officer or enlisted ~~man~~ member of the South Dakota State Guard ~~shall~~ may
14 be arrested on any warrant, except for treason or felony, while going to, remaining at, or
15 returning from a place where ~~he~~ the officer or member is ordered to attend for military duty.
16 Every officer and enlisted ~~man of such forces shall, during his service therein, be~~ member
17 serving in the South Dakota State Guard is exempt from service upon any posse comitatus and
18 from jury duty.

19 Section 149. That § 33-16-1 be amended to read as follows:

20 33-16-1. For the purposes of this chapter, a veteran ~~shall be considered to be a man or~~
21 ~~woman~~ is a person who has served in the armed forces of the United States during a time when
22 the Congress has declared a state of war to exist, who is in such wartime service, or who is a
23 veteran as defined by § 33-17-1, who was a legal resident of South Dakota at the time of entry
24 into service or who, following discharge, ~~shall have~~ has been a resident of this state for one year;

1 ~~provided that. However,~~ a nonresident in this state ~~shall be~~ is entitled to any benefits available
2 in this state to a South Dakota resident under the same conditions.

3 Section 150. That § 33-16-5 be repealed.

4 ~~33-16-5. Each commissioner shall furnish a bond in the sum of one thousand dollars~~
5 ~~conditioned on the faithful performance of the duties of his office, the premium to be paid out~~
6 ~~of funds of the Division of Veterans Affairs.~~

7 Section 151. That § 33-16-11 be amended to read as follows:

8 33-16-11. The director of the Division of Veterans Affairs shall, with the approval of the
9 Department of Military and Veterans Affairs, establish and maintain a sufficient office and field
10 force to carry out the provisions of this chapter, including representation at the veterans
11 administration facility in this state ~~and at the veterans administration facilities in St. Paul,~~
12 ~~Minnesota, and fix their compensation on a scale consistent with the salaries of other state~~
13 ~~divisions and within the appropriation provided for the administration of this chapter.~~

14 Section 152. That § 33-16-13 be amended to read as follows:

15 33-16-13. All employees of the Division of Veterans Affairs below the level of director shall
16 be selected as provided by chapter 3-6A, ~~provided that. However,~~ all employees shall be
17 veterans, ~~when~~ if available. These employees shall perform ~~such~~ duties as ~~may be~~ assigned to
18 them by the Department of Military and Veterans Affairs.

19 Section 153. That § 33-16-18 be amended to read as follows:

20 33-16-18. The Division of Veterans Affairs shall cooperate with all national, state, county,
21 municipal, and private social agencies in securing to veterans and their dependents the benefits
22 provided by national, state, and county laws, municipal ordinances, or public or private social
23 agencies, ~~and to that end shall have power to.~~ To that end, the division may hold schools of
24 instruction for county service officers, or ~~to~~ call in for instruction individual county service

1 officers ~~when~~ if, in the judgment of the Department of Military and Veterans Affairs, the giving
2 of such instructions or holding of such schools ~~shall be for~~ is in the best interest of the work of
3 the division, ~~and shall have authority to~~. The division may pay the actual necessary expenses of
4 any such county service officer ~~or officers~~ when attending such ~~school or~~ schools of instruction
5 away from ~~their~~ the officer's home county, out of the funds appropriated for the administration
6 of the Division of Veterans Affairs, ~~said expense to~~. The expenses may be paid out only on duly
7 itemized vouchers presented to the state auditor and approved by the director of the division.

8 Section 154. That § 33-16-19 be amended to read as follows:

9 33-16-19. The Division of Veterans Affairs may designate an employee ~~who has the right~~
10 to act as conservator for a minor or an incompetent person receiving moneys from the United
11 States government if no other suitable person will so act, or to act as petitioner for commitment
12 of veterans to mental institutions; or for release ~~therefrom~~ from mental institutions.

13 Section 155. That § 33-16-21 be amended to read as follows:

14 33-16-21. The attorney general ~~is hereby directed to~~ shall assign to the Division of Veterans
15 Affairs an assistant attorney general who ~~shall when available be~~ is, if available, an honorably
16 discharged war veteran, ~~and who~~. The assistant attorney general shall serve the division for ~~such~~
17 ~~share of his time as may be~~ a period of time deemed necessary for the adequate protection of the
18 ~~interest~~ interests of veterans and of the state.

19 Section 156. That § 33-16-22 be amended to read as follows:

20 33-16-22. The Division of Veterans Affairs ~~shall have~~ has access to the records of penal and
21 charitable institutions; and ~~authority to~~ may investigate the status of veterans ~~therein and to~~ in
22 such institutions. The division may report to the heads of such institutions and if necessary to
23 the Governor ~~with~~ any recommendations for the benefit of such veterans.

24 Section 157. That § 33-16-24 be amended to read as follows:

1 33-16-24. The board of county commissioners of each county in this state shall employ or
2 join with another county or counties in employing a county veterans' service officer, ~~provided~~
3 ~~that the county veterans' service officer shall, before his employment is effective, be who, before~~
4 such employment takes effect, is approved by the state director of veterans affairs. ~~Upon his~~ The
5 county veteran's service officer's first appointment, ~~the county veterans' service officer shall~~
6 ~~serve until ends on~~ the first Monday in January of the second year subsequent to the year of ~~his~~
7 the appointment. ~~If reappointed, such appointment shall be~~ The county veteran's service officer
8 may be reappointed for ~~a term~~ terms of four years for each term. The appointment is subject to
9 removal by the board or boards of county commissioners upon the recommendation of the state
10 director of veterans affairs or for cause.

11 Section 158. That § 33-16-26 be amended to read as follows:

12 33-16-26. ~~It shall be the duty of a~~ Each county veterans' service officer ~~when employed to~~
13 shall provide, within the county or counties employing ~~him~~ the officer, local contact between
14 fieldmen of the State Division of Veterans Affairs and persons in the armed service or those
15 discharged from such service, and the dependents of such persons; ~~to~~ The county veteran's
16 service officer shall aid or assist volunteer service officers in securing evidence and perfecting
17 claims; ~~to~~ advise those in the armed service and veterans or their dependents of benefits
18 available to them; and ~~to~~ aid them in completing required forms and complying with
19 regulations. ~~He shall work~~ The county veteran's service officer works under the supervision and
20 direction of the State Division of Veterans Affairs.

21 Section 159. That § 33-16-28 be amended to read as follows:

22 33-16-28. A county veterans' service officer ~~shall~~ may be employed either part time or full
23 time. The salary and necessary mileage and expense allowance of the officer shall be determined
24 by the board or boards of county commissioners employing ~~him~~ the officer. The officer shall

1 be provided with office space, office fixtures, furnishings, and equipment, either in the
2 courthouse or some other central and accessible place.

3 Section 160. That § 33-17-1 be amended to read as follows:

4 33-17-1. For the purposes of all statutes relating to rights, privileges, exemptions, and
5 benefits (except a state bonus) of veterans and their orphans and other dependents, the term
6 "~~veteran~~", veteran, means any person who:

- 7 (1) Has performed qualifying military service as defined in § 33-17-2; and
8 (2) Has been separated or discharged from the armed forces honorably or under
9 honorable conditions or has been released to any reserve component of the armed
10 forces of the United States.

11 Section 161. That § 33-17-2 be amended to read as follows:

12 33-17-2. As used in § 33-17-1, the term, qualifying military service, means:

- 13 (1) Active duty in the armed forces of the United States for one day or more during the
14 period from April 6, 1917, to November 11, 1918, inclusive;
15 (2) Active duty for one day or more during the period from July 28, 1914, to
16 November 11, 1918, inclusive, performed by a citizen of the United States in the
17 armed forces of any nation that was allied with the United States during any part of
18 the period from April 6, 1917, to November 11, 1918, inclusive;
19 (3) Active duty in the armed forces of the United States for one day or more during the
20 period from December 7, 1941, to December 31, 1946, inclusive;
21 (4) Active duty for one day or more during the period from September 1, 1939, to
22 December 31, 1946, inclusive, performed by a citizen of the United States in the
23 armed forces of any nation that was allied with the United States during any part of
24 the period from December 7, 1941, to December 31, 1946, inclusive;

- 1 (5) Active duty in the armed forces of the United States for one day or more during the
2 period from June 25, 1950, to May 7, 1975, inclusive;
- 3 (6) Active duty in the armed forces of the United States for one day or more during the
4 period from August 2, 1990, until the end of hostilities as determined by the
5 Legislature;
- 6 (7) Active duty in the armed forces of the United States for one day or more in a military
7 action for which the veteran earned an armed forces expeditionary medal, ~~southwest~~
8 ~~Asia service medal~~ or other United States campaign, expeditionary, or service medal
9 awarded for participation outside the boundaries of the United States in combat
10 operations against hostile forces; or
- 11 (8) Active duty in the armed forces of the United States for one day or more if the
12 veteran has established the existence of a service-connected disability.

13 Service on active duty by any reserve or national guard personnel for training may not be
14 construed as service on active duty, unless the veterans' commission determines, by rules
15 promulgated pursuant to chapter 1-26, that such training involved the person in direct
16 participation in or direct support of combat operations against a hostile force.

17 Section 162. That § 33-17-2.1 be amended to read as follows:

18 33-17-2.1. To the extent and for the purposes for which veterans of World War I, World
19 War II, or the Korean conflict, their orphans and other dependents, are or were entitled under
20 existing law to certain rights, privileges, exemptions, and benefits, these rights, privileges,
21 exemptions, and benefits, except a state bonus, are hereby extended to any person who has
22 served on active duty with the Armed Forces of the United States ~~between~~ from February 1,
23 1955, ~~and to~~ April 1, 1973, who inclusive, or from August 2, 1990, to a date to be determined
24 by the Legislature. Such benefits are extended to any person who has been discharged from such

1 service honorably or under honorable conditions, or has been released to any reserve branch of
2 the armed services of the United States; ~~or, and to~~ any active duty personnel whose service has
3 qualified them for such benefits. Any reserve or ~~national guard~~ National Guard personnel who
4 have served on active duty for training ~~may not be~~ are not construed to have served on active
5 duty.

6 Section 163. That § 33-17-7 be amended to read as follows:

7 33-17-7. ~~Recognizing~~ The Legislature finds that the care of the dependents of those in active
8 service or of those who have died while in active service, and the postwar adjustment of all
9 military personnel of the United States, ~~is~~ are primarily and justly the ~~obligation~~ obligations of
10 the federal government, ~~yet realizing. However, because of~~ the possibility of delay in making
11 arrangements to extend such care or to complete that readjustment, the veterans affairs division
12 special revenue fund may be used for the purpose of extending emergency aid and assistance:

13 (1) To the dependents of those who are in active service or who have died in active
14 service, during the time when allotments, gratuity pay, arrears pay, insurance claims,
15 widow or widower pensions, or any other claim or benefit of such dependents are
16 being adjudicated or processed, or if financial relief is required for any emergency
17 need;

18 (2) To ~~the~~ any veteran or veteran's dependents ~~during the time when~~ while any
19 application for schooling or business rehabilitation, compensation, hospitalization,
20 or any other benefit is being adjudicated or processed, or if financial relief is required
21 for any emergency need.

22 Section 164. That § 33-17-8 be amended to read as follows:

23 33-17-8. Funds shall be advanced to ~~the~~ any veteran or ~~his~~ or to the veteran's dependents
24 under § 33-17-7 ~~when if~~ if emergency need has been established to the satisfaction of the director

1 of the Division of Veterans Affairs, under rules promulgated pursuant to chapter 1-26 by the
2 Veterans Commission, and upon agreement by the veteran or ~~his~~ the veteran's dependents that
3 the funds so loaned shall be repaid without interest and ~~shall be~~ are due two years from the date
4 ~~such~~ the money is loaned. The agreement shall be in ~~such form as~~ a form prescribed by the
5 Department of Military and Veterans Affairs ~~shall prescribe~~, and money so repaid shall be paid
6 into the veterans affairs division special revenue fund under the control of the department. In
7 no case ~~shall~~ may the sums loaned to any veteran, or to the aggregate of ~~such~~ the veteran's
8 dependents, exceed the sum of five hundred dollars.

9 Section 165. That § 33-17-12 be amended to read as follows:

10 33-17-12. Notwithstanding any other provisions of the laws of this state, any instrumentality
11 of the armed forces of the United States, including voluntary unincorporated organizations of
12 ~~army or navy~~ military personnel, located on exclusive federal areas, engaged in resale activities
13 may procure articles of merchandise from wholesalers, distributors, or manufacturers located
14 in this state, ~~and no~~ No excise tax of this state, direct or indirect, other than those on
15 intoxicating liquor or wine, ~~shall~~ may be imposed upon the sale, use, delivery, or storage of
16 articles of merchandise to any instrumentality of the armed forces of the United States, including
17 voluntary unincorporated organizations of ~~army or navy~~ military personnel, located on exclusive
18 federal areas, engaged in resale activities, except ~~those~~ state excise taxes ~~which may be~~ that are
19 specifically authorized by ~~the various~~ acts of the Congress of the United States.

20 Section 166. That § 33-17-15.1 be amended to read as follows:

21 33-17-15.1. If any member of the South Dakota National Guard is ordered to active duty
22 service by the Governor of the State of South Dakota or the President of the United States, the
23 member has all protections afforded to persons serving on federal active duty by the ~~Soldiers~~
24 ~~and Sailors~~ Servicemembers Civil Relief Act of 2003, 54 Stat. 1178, 50 App. U.S.C.A. 501-548

1 and 560-591, as amended to January 1, ~~2002~~ 2007, and by the Uniformed Services Employment
2 and Reemployment Rights Act, 108 Stat. 3149, 38 U.S.C.A. 4301 to 4333, as amended to
3 January 1, ~~2002~~ 2007.

4 Section 167. That § 33-17-16 be amended to read as follows:

5 33-17-16. For the purposes of §§ 33-17-19 to ~~33-17-36~~ 33-17-38, inclusive, terms mean:

- 6 (1) "Armed forces," the United States Army, Air Force, Coast Guard, Marine Corps,
7 Navy, and their components, including both men and women;
- 8 (2) "Bonus," the benefits provided under §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive;
- 9 (3) "Commission," the Veterans' Commission created by § 33-16-4;
- 10 (4) "Dependents of deceased veterans," or "dependents," any person standing in relation
11 to a deceased veteran of: surviving spouse, child, mother, father, foster mother or
12 father, regardless of whether or not ~~such~~ the person was actually dependent upon ~~said~~
13 the deceased veteran;
- 14 (5) "Director," the director of veterans affairs appointed pursuant to § 1-46-9;
- 15 (6) "Legal resident," a person who for a period of not less than six months immediately
16 preceding entry into the armed forces of the United States as defined by subdivision
17 (1) was a resident in good faith of the State of South Dakota;
- 18 (7) "Veteran," any ~~person who has received or is eligible to receive the armed forces~~
19 ~~expeditionary medal, southwest Asia service medal, Kosovo campaign medal, global~~
20 ~~war on terrorism expeditionary medal, global war on terrorism service medal, or~~
21 ~~other United States campaign or service medal awarded for participation outside the~~
22 ~~boundaries of the United States in combat operations against hostile forces for~~
23 ~~service in the armed forces from~~ veteran as defined in § 33-17-1 who served in the
24 armed forces during the period beginning January 1, 1993, to a date to be determined

1 by the South Dakota Legislature.

2 Section 168. That § 33-17-20 be amended to read as follows:

3 33-17-20. A veterans bonus shall be paid to any veteran, or to the dependents of a deceased
4 veteran, if the veteran was a legal resident of the State of South Dakota for at least six months
5 immediately preceding entry into the armed forces of the United States, if the veteran is still in
6 the armed forces or was separated or discharged from the armed forces honorably or under
7 honorable conditions, and if the veteran either:

8 (1) Served for at least thirty days on active duty in the armed forces of the United States
9 and received or is eligible to receive the armed forces expeditionary medal, Kosovo
10 campaign medal, global war on terrorism expeditionary medal, global war on
11 terrorism service medal, Afghanistan campaign medal, Iraq campaign medal, or
12 southwest Asia service medal or other United States campaign or service medal
13 awarded for participation outside the boundaries of the United States in combat
14 operations against hostile forces for service in the armed forces from January 1, 1993,
15 to a date to be determined by the South Dakota Legislature; or

16 (2) Served for at least thirty days on active duty in the armed forces of the United States,
17 a portion of which shall have been during the period from September 11, 2001, to a
18 date to be determined by the South Dakota Legislature.

19 The act of performing military duty in the State of South Dakota at an assigned military
20 station does not in itself constitute residency for bonus purposes. However, a veteran who does
21 not meet the South Dakota residency requirements of this section, but who would otherwise
22 qualify for a bonus pursuant to this section based on service in a unit of the South Dakota
23 National Guard or a South Dakota-based unit of the armed forces reserve, is eligible for the
24 bonus if the veteran is not eligible for a similar benefit from any other state.

Section 169. That § 33-17-21 be amended to read as follows:

33-17-21. National ~~guard~~ Guard or reserve personnel who put in periods of active duty for training in the federal forces ~~shall~~ may not be included among the beneficiaries of §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive, unless they were called for further active duty. If they were called for further active duty they ~~shall be~~ are eligible for the bonus for the time so served and for the time spent in active duty for training if that time was within the eligible period fixed in § 33-17-20. However, the commission may promulgate rules pursuant to chapter 1-26 to specify special circumstances under which service by ~~national-guard~~ National Guard or reserve personnel in a training or active duty status may qualify for the bonus if such service involved participation in or direct support of military operations or activities that would qualify for benefits under § 33-17-20.

Section 170. That § 33-17-22 be amended to read as follows:

33-17-22. Any bonus earned pursuant to § 33-17-20 that is based on qualifying service during the period September 11, 2001, to a date to be determined by the South Dakota Legislature, shall be paid at the rate of one hundred dollars for the first month and twenty dollars for each subsequent month of active duty in the armed forces during such period, to a maximum bonus of two hundred forty dollars ~~for service in nonhostile area~~. However, any person who qualifies for a bonus pursuant to § 33-17-20 and who has received or is eligible to receive, based on service in the armed forces from January 1, 1993, to a date to be determined by the South Dakota Legislature, the southwest Asia service medal, the armed forces expeditionary medal, Kosovo campaign medal, Afghanistan campaign medal, Iraq campaign medal, global war on terrorism expeditionary medal, global war on terrorism service medal, or other United States campaign or service medal awarded for participation outside the boundaries of the United States in combat operations against hostile forces, shall, for the time served in one or more such areas

1 qualifying for any of the medals listed in this section, be paid one hundred fifty dollars for the
2 first month and fifty dollars for each subsequent month of such service, up to a maximum
3 bonus, together with any payments pursuant to this section for service not qualifying for any
4 such medal, of five hundred dollars.

5 Section 171. That § 33-17-23 be amended to read as follows:

6 33-17-23. In computing a month of service under §§ ~~33-17-22 and 33-17-37~~ § 33-17-22, any
7 period of service during a calendar month shall be computed as one full month in determining
8 monthly totals.

9 Section 172. That § 33-17-24.1 be amended to read as follows:

10 33-17-24.1. Notwithstanding the provisions of §§ ~~33-17-22 and 33-17-37~~ § 33-17-22, if any
11 veteran who qualifies for a bonus pursuant to § 33-17-20 is rated ten percent or more disabled
12 for service connected disability or disabilities by the veterans administration as a result of
13 wounds or injuries or illness incurred while on active duty in the areas or periods specified in
14 § 33-17-20 regardless of the length of such service, the veteran's bonus shall be in the amount
15 of five hundred dollars.

16 Section 173. That § 33-17-24.2 be amended to read as follows:

17 33-17-24.2. Any veteran qualified for the benefits authorized by § 33-17-24.1 who has
18 previously filed a claim under §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive, may amend ~~his~~ the
19 claim, or if ~~his~~ the original claim was paid, initiate a new claim for the difference between that
20 claimed or paid and the amount authorized by § 33-17-24.1.

21 Section 174. That § 33-17-25 be amended to read as follows:

22 33-17-25. No person is entitled to payment of a bonus ~~who, being~~ if the person, while in the
23 armed forces of the United States within any period set forth in § 33-17-20, refused on
24 conscientious, political, or other grounds, to subject himself or herself to military discipline or

1 who was separated from such service under conditions other than honorable and has not been
2 subsequently restored officially to an honorable status. No person who is eligible to receive from
3 another state of the United States a bonus or gratuity or compensation similar to that provided
4 by §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive, may receive any bonus provided by §§ 33-17-
5 16 to ~~33-17-36~~ 33-17-38, inclusive.

6 Section 175. That § 33-17-26 be amended to read as follows:

7 33-17-26. The South Dakota Legislature finds and declares the bonus provided under §§ 33-
8 17-16 to ~~33-17-36~~ 33-17-38, inclusive, shall be paid as soon as this state has adequate and
9 sufficient funds to do so, ~~and there~~. There are hereby authorized such sums of money as are
10 necessary to pay ~~said~~ the bonus, and all administrative expenses of the commission in
11 connection ~~therewith~~ with payment of the bonus, to be appropriated by subsequent sessions of
12 this Legislature or to be otherwise paid as provided by law.

13 Section 176. That § 33-17-27 be amended to read as follows:

14 33-17-27. ~~In case~~ If any bonus is payable under §§ 33-17-16 to ~~33-17-36~~ 33-17-38,
15 inclusive, to a minor who is a veteran, or a minor widow of such veteran, and who is under no
16 legal disability other than minority, payment of ~~such~~ the bonus shall be made to such person
17 direct.

18 Section 177. That § 33-17-28 be amended to read as follows:

19 33-17-28. ~~In case~~ If any bonus is payable under §§ 33-17-16 to ~~33-17-36~~ 33-17-38,
20 inclusive, to a mental incompetent, the bonus shall be paid to the person who is constituted his
21 or her committee, guardian, curator, or conservator, by the laws of the state of residence of ~~such~~
22 the mental incompetent, or is otherwise legally vested with the care of ~~such~~ the mental
23 incompetent, ~~provided, however, if there be~~. However, if no such committee, guardian, curator,
24 conservator, or other person exists, payment shall be made to the chief officer of any hospital

1 or institution in which the mental incompetent is placed ~~where such~~ if the officer is authorized
2 to accept moneys for the benefit of the mental incompetent; ~~and provided further, if there be.~~
3 If no such committee, guardian, curator, or conservator exists, and if the mental incompetent is
4 not in any such hospital or institution, payment shall be made to the person determined by the
5 commission to have assumed the major responsibility for the care of the mental incompetent.
6 Any payment ~~hereunder~~ under this section shall be held or used solely for the benefit of the
7 mental incompetent.

8 Section 178. That § 33-17-29 be amended to read as follows:

9 33-17-29. In case of the death of any person after July 1, 1969, who would, if alive, be
10 entitled to benefits under §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive, the bonus shall be paid
11 to ~~his~~ the person's dependents, if any; ~~if there be.~~ If there is more than one dependent, payment
12 shall be made in ~~such a proportion as determined by the commission shall determine;~~ and in the
13 order of preference as follows: wife; or husband, ~~as the case may be;~~ children, mother, father,
14 foster mother, and foster father.

15 Section 179. That § 33-17-30 be amended to read as follows:

16 33-17-30. The commission shall promulgate rules pursuant to chapter 1-26 to define and
17 provide for eligibility criteria, administration and method of payment of the bonus created in
18 §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive.

19 Section 180. That § 33-17-31 be amended to read as follows:

20 33-17-31. The director shall prepare ~~such~~ application forms and ~~regulations~~ rules governing
21 administration of §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive, as the commission ~~may direct~~
22 ~~and authorize~~ directs and authorizes under § 33-17-30, ~~which.~~ The application forms and
23 ~~regulations~~ rules shall be completed and made available to eligible veterans when funds are
24 available to the commission ~~permit, and payment.~~ Payment of all claims approved by the

1 commission shall be made as funds are available and in the order ~~as~~ determined by the
2 commission.

3 Section 181. That § 33-17-32 be amended to read as follows:

4 33-17-32. All claims for compensation under §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive,
5 shall be presented to the commission on such forms as it may require no later than three years
6 after the date to be determined by the South Dakota Legislature. If approved for payment by the
7 commission, the director shall submit an authorized voucher to the state auditor, who shall issue
8 the warrant for the amount of the approved claim to the person found by the commission to be
9 entitled to the claim.

10 Section 182. That § 33-17-33 be amended to read as follows:

11 33-17-33. Any person who ~~shall falsely make application~~ falsely applies for a veteran's
12 bonus under the provisions of §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive, ~~shall be~~ is guilty
13 of a Class 1 misdemeanor.

14 Section 183. That § 33-17-34 be amended to read as follows:

15 33-17-34. ~~Decisions~~ Any decision of the Veterans' Commission as to the payment or
16 nonpayment of ~~bonus, or eligibility therefor, shall in all things be~~ a bonus claim, or eligibility
17 for the bonus, is final.

18 Section 184. That § 33-17-35 be amended to read as follows:

19 33-17-35. No right of payment of the bonus under §§ 33-17-16 to ~~33-17-36~~ 33-17-38,
20 inclusive, ~~shall be~~ is subject to moneys or credit taxation, claims of creditors, garnishment, or
21 assignment, nor ~~shall such~~ may the right of payment be deemed an asset, legal or equitable, of
22 the estate of a deceased veteran.

23 Section 185. That § 33-17-36 be amended to read as follows:

24 33-17-36. If any provisions of §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive, or the

1 application thereof to any person or circumstance or the validity or effectiveness of any one or
2 more of the sources of payment provided ~~be~~ are invalid, such invalidity or ineffectiveness ~~shall~~
3 does not affect the remaining provisions of §§ 33-17-16 to ~~33-17-36~~ 33-17-38, inclusive.

4 Section 186. That § 33-17-37 be repealed.

5 ~~— 33-17-37. Any bonus earned pursuant to § 33-17-20 that is based on qualifying service~~
6 ~~during the period from September 11, 2001, to a date to be determined by the South Dakota~~
7 ~~Legislature, shall be paid at the rate of one hundred dollars for the first month and twenty dollars~~
8 ~~for each subsequent month of active duty in the armed forces during such period, to a maximum~~
9 ~~bonus of two hundred forty dollars. However, any person who qualifies for a bonus pursuant to~~
10 ~~§ 33-17-20 and who has received or is eligible to receive the southwest Asia service medal, the~~
11 ~~armed forces expeditionary medal, Kosovo campaign medal, global war on terrorism~~
12 ~~expeditionary medal, global war on terrorism service medal, or other United States campaign~~
13 ~~or service medal awarded for participation outside the boundaries of the United States in combat~~
14 ~~operations against hostile forces for service in the armed forces after January 1, 1993, to a date~~
15 ~~to be determined by the South Dakota Legislature, for the time served in one or more such areas~~
16 ~~qualifying for any of the medals listed in this section, be paid one hundred fifty dollars for the~~
17 ~~first month and fifty dollars for each subsequent month of such service, up to a maximum~~
18 ~~bonus, together with any payments pursuant to this section for service not qualifying for either~~
19 ~~medal, of five hundred dollars.~~

20 Section 187. That § 33-17A-3 be amended to read as follows:

21 33-17A-3. The person whose commitment is sought shall be personally served with notice
22 of the pending commitment proceeding in the manner as provided by the law of this state; ~~and~~
23 ~~nothing.~~ Nothing in this chapter ~~shall affect his~~ affects the person's right to appear and be heard
24 in the proceedings.

Section 188. That § 33-17A-5 be amended to read as follows:

33-17A-5. Jurisdiction is retained in the committing or other appropriate court of this state at any time to inquire into the mental condition of the person committed, pursuant to § 33-17A-2, and to determine the necessity for continuance of ~~his~~ the person's restraint, and all commitments pursuant to this chapter are so conditioned.

Section 189. That § 33-17A-7 be amended to read as follows:

33-17A-7. No person may be transferred to the United States Department of Veterans' Affairs or other agency of the United States if ~~he be~~ the person is confined pursuant to conviction of any felony or misdemeanor or if ~~he~~ the person has been acquitted of the charge solely on the ground of mental illness, unless prior to transfer the court or other authority originally committing ~~such~~ the person ~~shall enter~~ enters an order for ~~such~~ the transfer after appropriate motion and hearing.

Any person transferred as provided in §§ 33-17A-2 to 33-17A-7, inclusive, ~~shall be~~ is deemed to be committed to the United States Department of Veterans' Affairs or other agency of the United States pursuant to the original commitment.

Section 190. That § 33-17A-8 be amended to read as follows:

33-17A-8. The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia, committing a person to the United States Department of Veterans' Affairs, or other agency of the United States government for care or treatment has the same force and effect as to the committed person while in this state as in the jurisdiction in which is situated the court entering the judgment or making the order; ~~and the~~. The courts of the committing state, or of the District of Columbia, retain jurisdiction of the person so committed for the purpose of inquiring into the mental condition of ~~such~~ the person, and of determining the necessity for continuance of ~~his~~ the person's restraint as ~~is~~ provided in

1 § 33-17A-5 with respect to persons committed by the courts of this state. Consent is hereby
2 given to the application of the law of the committing state or district in respect to the authority
3 of the chief officer of any facility of the United States Department of Veterans' Affairs, or of any
4 institution operated in this state by any other agency of the United States to retain custody, or
5 transfer, parole, or discharge the committed person.

6 Section 191. That § 33-17A-11 be amended to read as follows:

7 33-17A-11. Not less than fourteen days ~~prior to~~ before hearing ~~in such~~ on the matter, notice
8 in writing of the time and place ~~thereof~~ of the hearing shall be given by mail (unless waived in
9 writing) to the office of the United States Department of Veterans' Affairs having jurisdiction
10 over the area in which ~~such~~ the suit or any such proceeding is pending.

11 Section 192. That § 33-17A-19 be amended to read as follows:

12 33-17A-19. If a petition is filed for the appointment of a conservator for a mentally
13 incompetent ward, a certificate of the secretary of veterans' affairs ~~or his duly authorized~~
14 ~~representative, that such~~ that the person has been rated incompetent by the United States
15 Department of Veterans' Affairs on examination in accordance with the laws and regulations
16 governing the United States Department of Veterans' Affairs and that the appointment of a
17 conservator is a condition precedent to the payment of any moneys due ~~such~~ to the ward by the
18 United States Department of Veterans' Affairs, ~~shall be~~ is prima facie evidence of the necessity
19 for ~~such~~ the appointment.

20 Section 193. That § 33-17A-21 be amended to read as follows:

21 33-17A-21. If a bond is tendered by a conservator with personal sureties, there shall be at
22 least two such sureties ~~and they~~. Each surety shall file with the court a certificate under oath
23 which ~~shall describe~~ describes the property owned, both real and personal, and ~~shall state~~ states
24 that ~~each~~ the surety is worth the sum named in the bond as the penalty ~~thereon~~ on the bond over

1 and above all ~~his~~ of the surety's debts and liabilities and the aggregate of other bonds on which
2 ~~he~~ the surety is principal or surety and exclusive of property exempt from execution. The court
3 may require additional security or may require a corporate surety bond, the premium ~~thereon~~ on
4 the bond to be paid from the ward's estate.

5 Section 194. That § 33-17A-22 be amended to read as follows:

6 33-17A-22. No person other than a bank or trust company may be guardian or conservator
7 of more than five wards at one time, unless all the wards are members of one family. Upon
8 presentation of a petition by an attorney of the United States Department of Veterans' Affairs
9 or other interested person, alleging that a guardian or conservator is acting in fiduciary capacity
10 for more than five wards as ~~herein~~ provided in this section and requesting ~~his~~ the guardian's or
11 conservator's discharge for that reason, the court, upon proof substantiating the petition, shall
12 immediately require a final report or accounting ~~forthwith~~ from such ~~the~~ guardian or conservator
13 ~~and~~. The court shall discharge ~~him~~ the guardian or conservator from guardianships or
14 conservatorships in excess of five and ~~forthwith~~ immediately appoint a successor.

15 Section 195. That § 33-17A-23 be amended to read as follows:

16 33-17A-23. ~~Every~~ Each conservator shall invest the surplus funds of ~~his~~ the conservator's
17 ward's estate in ~~such~~ securities or property as authorized under the laws of this state but only
18 upon prior order of the court. However, the funds may be invested, without prior court
19 authorization, in federally insured interest-bearing accounts, in direct unconditional
20 interest-bearing obligations of this state or of the United States, and in obligations the interest
21 and principal of which are unconditionally guaranteed by the United States. A signed duplicate
22 or certified copy of the petition for authority to invest shall be furnished to the proper office of
23 the United States Department of Veterans' Affairs, and notice of hearing ~~thereon shall be given~~
24 ~~said~~ on the petition shall be given to the office as provided in the case of hearing on a

conservator's account.

Section 196. That § 33-17A-24 be amended to read as follows:

33-17A-24. The court may authorize the purchase of the entire fee simple title to real estate in this state in which the conservator has no interest, but only as a home for the ward, or to protect ~~his~~ the ward's interest, or (if ~~he~~ the ward is not a minor) as a home for ~~his~~ the ward's dependent family. No purchase of real estate may be made except upon the entry of an order of the court after hearing upon verified petition. A copy of the petition shall be furnished to the proper office of the United States Department of Veterans' Affairs and notice of hearing ~~thereon~~ on the petition shall be given ~~said~~ to the office as provided in the case of hearing on a conservator's account.

Section 197. That § 33-17A-26 be amended to read as follows:

33-17A-26. Sections 33-17A-24 and 33-17A-25 do not limit the right of the conservator on behalf of ~~his~~ the conservator's ward to bid and to ~~become the purchaser of~~ purchase real estate at a sale ~~thereof~~ of real estate pursuant to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; ~~nor do they.~~ Sections 33-17A-24 and 33-17A-25 do not limit the right of the conservator, if ~~such be~~ necessary to protect the ward's interest and upon prior order of the court in which the conservatorship is pending, to agree with cotenants of the ward for a partition in kind, or to purchase from the cotenants the entire undivided interests held by them, or to bid and purchase the ~~same~~ interests at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty.

Section 198. That § 33-17A-28 be amended to read as follows:

33-17A-28. ~~Every~~ Each conservator ~~shall be~~ is allowed the amount of ~~his~~ the conservator's reasonable expenses incurred in the execution of ~~his trust, and he shall also have the~~

1 conservator's trust. The conservator may receive such compensation for his or her services as
2 the court; in which ~~his~~ the conservator's accounts are settled; deems just and reasonable.

3 Section 199. That § 33-17A-29 be amended to read as follows:

4 33-17A-29. ~~Every~~ Any conservator, who receives or has received ~~or shall receive~~ on account
5 of ~~his~~ the conservator's ward any moneys or other things of value from the United States
6 Department of Veterans' Affairs shall file with the court annually, on the anniversary date of the
7 appointment, in addition to ~~such~~ any other accounts ~~as may be~~ required by the court, a full, true,
8 and accurate account under oath of all moneys or other things of value so received by ~~him~~, the
9 conservator. The account shall indicate all earnings, interest, or profits derived ~~therefrom and~~
10 from the money or other things of value, all property acquired ~~therewith and of~~ with the money
11 or other things of value, and all disbursements ~~therefrom, and showing~~ from the money or other
12 things of value. The account shall indicate the balance ~~thereof in his~~ of the money or other
13 things of value in the conservator's hands at the date of the account and how invested.

14 Section 200. That § 33-17A-30 be amended to read as follows:

15 33-17A-30. The conservator, at the time of filing any account, shall exhibit all securities or
16 investments held by ~~him~~ the conservator to an officer of the bank or other depository ~~wherein~~
17 ~~said~~ in which the securities or investments are held for safekeeping or to an authorized
18 representative of the corporation which is surety on ~~his~~ the conservator's bond, or to the judge
19 or clerk of a court of record in this state, or, upon request of the conservator or other interested
20 party, to any other reputable person designated by the court, ~~who~~. The person to whom the
21 securities or investments were exhibited shall certify in writing that he or she has examined the
22 securities or investments and identified them with those described in the account; and shall note
23 any omissions or discrepancies. If the depository is the conservator, the certifying officer may
24 not be the officer verifying the account. The conservator may exhibit the securities or

1 investments to the judge of the court, who shall endorse on the account and ~~copy thereof~~ on a
2 copy of the account a certificate that the securities or investments shown ~~therein~~ in the account
3 as held by the conservator were each in fact exhibited to ~~him~~ the judge and that those exhibited
4 to ~~him~~ the judge were the same as those shown in the account, and noting any omission or
5 discrepancy. That certificate and the certificate of an official of the bank in which are deposited
6 any funds for which the conservator is accountable, showing the amount on deposit, shall be
7 prepared and signed in duplicate and one of each shall be filed by the conservator with ~~his~~ the
8 conservator's account.

9 Section 201. That § 33-17A-31 be amended to read as follows:

10 33-17A-31. If the conservator is accountable for property derived from sources other than
11 the United States Department of Veterans' Affairs, ~~he shall be~~ the conservator is accountable
12 as ~~is or may be~~ required under the applicable law of this state pertaining to the property of
13 minors or protected persons who are not beneficiaries of the United States Department of
14 Veterans' Affairs, ~~and as to such other property shall be.~~ With respect to the property derived
15 from other sources, the conservator is entitled to the compensation provided by ~~such~~ the
16 applicable law. The account for other property may be combined with the account filed in
17 accordance with § 33-17A-29.

18 Section 202. That § 33-17A-33 be amended to read as follows:

19 33-17A-33. If any conservator fails to file with the court any account as required by this
20 chapter, or by an order of the court, when ~~any~~ the account is due or within thirty days after
21 citation issues as provided by law, or if the conservator fails to furnish the United States
22 Department of Veterans' Affairs a true copy of any account, petition, or pleading as required by
23 this chapter, such failure may, in the discretion of the court, be grounds for ~~his~~ the conservator's
24 removal.

Section 203. That § 33-17A-35 be amended to read as follows:

33-17A-35. In addition to any other provisions of law relating to judicial restoration and discharge of a conservator, a certificate by the United States Department of Veterans' Affairs showing that a minor ward has attained majority, or that an incompetent ward has been rated competent by the United States Department of Veterans' Affairs upon examination in accordance with law, is prima facie evidence that the ward has attained majority or has recovered his or her competency.

Section 204. That § 33-17A-36 be amended to read as follows:

33-17A-36. Upon hearing after notice as provided by this chapter and the determination by the court that the ward has attained majority or has recovered his or her competency, an order shall be entered to that effect, and the conservator shall file a final account.

Section 205. That § 33-17A-37 be amended to read as follows:

33-17A-37. Upon hearing after notice to the former ward and to the United States Department of Veterans' Affairs as in case of other accounts, upon approval of the final account, and upon delivery to the ward of the assets due ~~him~~ the ward from the conservator, the conservator shall be discharged and ~~his~~ the conservator's sureties released.

Section 206. That § 33-17A-41 be amended to read as follows:

33-17A-41. If a conservator is appointed for a veteran as defined in § 33-17-1 or for a person now or formerly in the service of the United States as a soldier, sailor, marine, nurse, or other similar capacity, or ~~his~~ for the veteran's or person's dependents and beneficiaries under the "War Risk Insurance Act" or "World War Veterans' Act," ~~and amendments thereto~~ as amended to January 1, 2007, and ~~where in such case such if the~~ where in such case such if the appointment is found necessary ~~in order that~~ to enable the ward to receive benefits under such acts, the provisions of §§ 33-17A-42 to 33-17A-45, inclusive, apply.

Section 207. That § 33-17A-43 be amended to read as follows:

33-17A-43. No probate fees ~~shall~~ may be charged ~~where~~ if the appointment referred to in § 33-17A-41 is for the purpose of recovering compensation, insurance, pension, or other gratuity payable to the ward under the laws of the United States.

Section 208. That § 33-18-1.2 be amended to read as follows:

33-18-1.2. No judicial or administrative suit, action, or other proceeding lawfully commenced before July 1, 1989, by or against any agency or any officer of the state, in ~~his~~ the ~~officer's~~ official capacity or in relation to the discharge of ~~his~~ the officer's official duties, ~~may~~ ~~abate or be affected by the reason of the taking effect of~~ is abated or affected by any reorganization under the provisions of this chapter. The court may allow the suit, action, or other proceeding to be maintained by or against the successor of any agency or any officer affected by this chapter.

Section 209. That § 33-18-2 be amended to read as follows:

33-18-2. The Department of Military and Veterans Affairs shall provide for the enforcement of all ~~such rules as are now or may hereafter be required by the statutes of the United States~~ applicable federal regulations to enable this state to receive ~~such aid as is usually~~ aid that is extended by the ~~national~~ United States government to states ~~which~~ that maintain institutions of the character of the State Veterans' Home. The department, with the advice of the Veterans' Commission, shall prescribe the method of the local management of ~~such~~ the home; and it shall promulgate ~~such rules as it shall deem necessary and proper~~ rules pursuant to chapter 1-26 for the maintenance of order and discipline and the preservation of the health and comfort of the members of ~~such~~ the home. Any violation of ~~such rules may be~~ the rules is punishable by suspension or expulsion in the judgment of the secretary of military and veterans affairs upon the charges filed by the superintendent of the home.

Section 210. That § 33-18-7 be amended to read as follows:

33-18-7. The superintendent of the State Veterans' Home may temporarily suspend and expel any member of the home for the violation of the rules ~~and regulations provided in~~ promulgated pursuant to § 33-18-2 pending a final hearing before the secretary of military and veterans affairs if ~~he~~ the superintendent deems it for the best interest of the institution. ~~Such~~ The temporary suspension and expulsion ~~shall be and remain~~ is in effect until the final hearing by the secretary of military and veterans affairs upon the charges filed by the superintendent. Notice of the final hearing together with a copy of the charges filed, shall be served on the offender personally at least three days before the date of the final hearing.

Section 211. That § 33-18-8 be amended to read as follows:

33-18-8. The superintendent of the State Veterans' Home shall recommend to the secretary of military and veterans affairs such measures as ~~he may deem~~ the superintendent deems necessary for the government of the home.

Section 212. That § 33-18-10 be amended to read as follows:

33-18-10. ~~Every~~ Any member of the State Veterans' Home who receives a pension, compensation, or gratuity from the United States government or sufficient funds from any source of more than fifty dollars a month above contributions toward the care of any dependents, shall ~~be required to~~ contribute to ~~his~~ the member's maintenance, care, or support while a member of the home. ~~Such~~ The contributions shall be determined ~~on such basis as~~ by the secretary of military and veterans affairs ~~may decide~~ and may not exceed the cost of support of members at the home as determined by the secretary of military and veterans affairs. Payment of these amounts shall be made first to the fullest extent possible from sources of income other than pensions or compensation paid by the ~~veterans administration~~ Veterans Administration.

Section 213. That § 33-18-11 be amended to read as follows:

1 33-18-11. If a member of the State Veterans' Home accumulates more than ten thousand
2 dollars in cash assets while a resident at the state home, ~~he~~ the member shall pay a monthly
3 charge determined by the secretary of military and veterans affairs.

4 Section 214. That § 33-18-13 be amended to read as follows:

5 33-18-13. If any member of the State Veterans' Home dies without legal dependents, ~~his~~ the
6 member's property shall be distributed to the South Dakota State Veterans' Home as sole heir
7 for the sole use and benefit of the home. ~~Such~~ The member may, by will, dispose of ~~his~~ the
8 member's estate subject to the preferred claim provided in §§ 33-18-14 to 33-18-17, inclusive.

9 A spouse residing at the home ~~shall be included among and~~ is considered as a legal dependent
10 for the purpose of this section.

11 Section 215. That § 33-18-14 be amended to read as follows:

12 33-18-14. If a member of the State Veterans' Home ~~shall die~~ dies, leaving at the home cash
13 or other personal property of value, the superintendent of the home may turn over ~~such~~ the cash,
14 property, or its proceeds to the Department of Military and Veterans Affairs for the sole use and
15 benefit of the home, without administration; The cash, property, and proceeds are subject to
16 refund within three years to any creditor, legal dependent, or heir ~~in the event, if~~ the deceased
17 member left a will, and ~~who shall establish his~~ if the creditor, legal dependent, or heir
18 establishes a right to the fund or property or any portion thereof cash, property, or proceeds or
19 any portion of the cash, property, or proceeds. The attorney general, upon being satisfied that
20 a claim out of ~~such funds or property~~ the cash, property, or proceeds is legal and valid, may
21 certify the claim to the secretary of military and veterans affairs, and the secretary of military
22 and veterans affairs shall satisfy the claim.

23 Section 216. That § 33-18-15 be amended to read as follows:

24 33-18-15. If an estate is left by a deceased member of the State Veterans' Home leaving no

1 surviving spouse or dependent, the state home shall file a claim against the estate of ~~such~~ the
2 deceased member in the amount of the full maintenance charge for each month the member was
3 in the home, retroactive from the date of admission with proper credits allowed to the estate of
4 the deceased member for any payments made by him, ~~but such credits not to~~ the member.
5 However, the credits may not include any allowances of the state government ~~and such moneys~~
6 . Any such money received from the deceased member shall go to a capital fund of the state
7 home for repairs, equipment, improvements, or construction.

8 Section 217. That § 33-18-16 be amended to read as follows:

9 33-18-16. ~~In the event that~~ If a deceased member of the State Veterans' Home ~~shall leave~~
10 leaves a spouse, or other dependent, ~~his estate shall be~~ the member's estate is payable to the
11 spouse, or other dependent, ~~but upon.~~ Upon the death of the spouse or other dependent, the state
12 home shall file a claim against the estate of the deceased spouse or other dependent for any
13 claim against the estate of both the deceased husband and wife as provided in § 33-18-15, ~~which~~
14 ~~claim shall be.~~ The claim is a preferred claim against ~~such~~ the estates.

15 Section 218. That § 33-18-20 be amended to read as follows:

16 33-18-20. ~~Each~~ Any member of the State Veterans' Home who receives a pension or
17 compensation and who has a dependent spouse or minor child shall deposit with the
18 superintendent ~~forthwith on receipt of his~~ immediately on receipt of the pension or
19 compensation check one-half of the amount ~~thereof, which.~~ The amount deposited with the
20 superintendent shall be sent at once to the spouse if the spouse is dependent upon ~~his~~ the
21 spouse's own labor or others for support, or, if there ~~be~~ is no spouse, to the conservator of the
22 minor children if dependent upon others for support. The superintendent, if satisfied that the
23 ~~wife or husband~~ member's spouse has deserted ~~his spouse~~ the member, or is of bad character,
24 or is not dependent upon others for support, may pay the money deposited as ~~herein~~ provided

1 in this section to the guardian or conservator of the dependent minor children.

2 Section 219. That § 33-18-23 be amended to read as follows:

3 33-18-23. The spouse of any veteran who is eligible to become a member of the State
4 Veterans' Home, may be admitted with the veteran; ~~provided, if~~ if they have been married and
5 living together for a ~~period of at least~~ at least one year ~~prior to before~~ application for admission and ~~that~~
6 if their combined income ~~shall~~ does not exceed four hundred dollars per year above the
7 maximum income limitation allowable for pension benefits as determined by the ~~veterans~~
8 ~~administration~~ Veterans Administration. Or, a spouse may be admitted if the veteran, otherwise
9 eligible to admission, is institutionalized for physical or mental disability, ~~provided that such~~
10 ~~spouse shall have~~ if the spouse has been married to the veteran spouse for a ~~period of not less~~
11 ~~than~~ at least one year. The nonveteran spouse ~~shall be~~ is subject to the same house rules and
12 rules as to furlough and discharge as the veteran spouse. Membership status ~~shall not be~~ is not
13 affected by the death of a spouse or by marriage between members of the home.

14 Section 220. That § 33-18-30 be amended to read as follows:

15 33-18-30. No person ~~shall~~ may be received or retained in the State Veterans' Home who is
16 mentally ill, is an inebriate, or is addicted to the use of drugs.

17 Section 221. That § 33-18-31 be amended to read as follows:

18 33-18-31. ~~When~~ If a member of the State Veterans' Home is discharged ~~therefrom~~ from the
19 home, or voluntarily leaves the home, or is adjudged mentally ill after admittance, ~~his or her~~
20 ~~residence shall be~~ the member's residence is that of the county in which ~~he or she~~ the member
21 was residing at the time of ~~his or her~~ the member's admittance to the home.

22 Section 222. That § 33-18-32 be amended to read as follows:

23 33-18-32. ~~Every~~ Each member of the State Veterans' Home ~~shall be~~ is deemed a resident of
24 the county in which ~~he or she~~ the member was residing at the time of ~~his or her~~ admittance to

1 the home and ~~shall~~ does not lose his or her residence or the right to vote in ~~said~~ the county.

2 Section 223. That § 33-19-1 be amended to read as follows:

3 33-19-1. Upon notice to the county veterans' service officer or field officer of the Division
4 of Veterans Affairs of the death within ~~his~~ the county of a person entitled to burial benefits
5 under this chapter, or at ~~his~~ the officer's own initiative in a proper case, it ~~shall be the duty of~~
6 ~~such~~ the veterans' service officer or field officer ~~to carry into effect~~ shall implement the
7 provisions of this chapter in reference to the burial of ~~such~~ the deceased.

8 Section 224. That § 33-19-2 be amended to read as follows:

9 33-19-2. Any ~~honorably discharged United States soldier, sailor, marine, aviator, or war~~
10 ~~nurse of the Spanish-American War or Philippine Insurrection, or any veteran as defined by~~
11 ~~§ 33-17-1, or the~~ veteran's spouse, widow, or widower of such veteran; ~~who being a citizen of~~
12 ~~the United States and a resident of this state for one year preceding entrance into military service~~
13 ~~or preceding his death, shall hereafter die and whose estate or the estate of the husband or wife,~~
14 ~~whether living or deceased or whose immediate family or members thereof, or relatives, are~~
15 ~~unable to defray the charges of his or her funeral, shall be buried at the expense of this state,~~
16 ~~providing such surviving husband, wife, or the relatives of the deceased person can furnish an~~
17 ~~affidavit acceptable to the county veterans' service officer or field officer of the Division of~~
18 ~~Veterans Affairs that the estate of the decedent or of his or her surviving husband or wife is not~~
19 ~~sufficient to defray the funeral expenses~~ shall be buried at the expense of this state if:

20 (1) The veteran was a citizen of the United States and a resident of South Dakota for one
21 year preceding the veteran's entrance into military service or preceding the veteran's
22 death;

23 (2) The veteran's estate or the estate of the veteran's spouse, whether living or deceased,
24 or the immediate family or relatives of the veteran or the veteran's spouse are unable

1 to defray the expenses of the veteran's or the veteran's spouse's funeral; and

2 (3) The surviving spouse or relatives of the deceased veteran furnish an affidavit
3 acceptable to the county veterans' service officer or field officer of the Division of
4 Veterans Affairs that the estate of the decedent or of his or her surviving spouse is
5 not sufficient to defray the funeral expenses.

6 Section 225. That § 33-19-3 be amended to read as follows:

7 33-19-3. The state shall pay for burial and funeral expenses, including cost of burial lot, a
8 sum not exceeding one hundred dollars, ~~providing that no.~~ No payment or reimbursement for
9 burial and funeral expenses may be allowed unless a claim ~~therefor~~ for the payment or
10 reimbursement is filed or presented to the Division of Veterans Affairs; within one year
11 ~~subsequent to the date of such~~ after the date of the burial.

12 Section 226. That § 33-19-4 be repealed.

13 ~~— 33-19-4. The interment under §§ 33-19-2 and 33-19-3 shall not be made in any cemetery or~~
14 ~~burial plot used exclusively for the burial of the pauper dead.~~

15 Section 227. That § 33-19-6 be amended to read as follows:

16 33-19-6. All expenses incurred under the provisions of §§ 33-19-2 to 33-19-5, inclusive,
17 shall be approved, allowed, and certified, in quadruplicate, by the county veterans' service
18 officer or field officer of the Division of Veterans Affairs upon forms provided by the Division
19 of Veterans Affairs, ~~one copy of which shall be retained by the county veterans' service officer~~
20 ~~or field officer, three copies forthwith forwarded.~~ The county veteran's service officer or field
21 officer shall retain one copy of the forms and shall immediately forward three copies of the
22 forms to the Division of Veterans Affairs, ~~which will.~~ The division shall certify and forward the
23 ~~same~~ forms to the state auditor.

24 Upon receipt ~~by the state auditor of such certificate, he shall draw his~~ of the certified forms,

1 the state auditor shall draw a warrant on the state treasurer in favor of the person or persons
2 entitled ~~thereto~~ to the payment for the amount specified ~~therein~~ on the forms.

3 Section 228. That § 33-19-8 be amended to read as follows:

4 33-19-8. Any county may appropriate money with which to purchase lots or plots of ground
5 in any cemetery or burial ground for the burial of any ~~honorably discharged United States~~
6 ~~soldier, sailor, marine, nurse, or aviator of the Civil War, Spanish-American War, or Philippine~~
7 ~~Insurrection, or any honorably discharged~~ veteran as defined by § 33-17-1, or the veteran's
8 spouse, ~~widow, or widower of any honorably discharged sailor, marine, or soldier of the Civil~~
9 ~~War, Spanish-American War, Philippine Insurrection, or of any honorably discharged veteran~~
10 ~~as defined by § 33-17-1, who~~ if the veteran or the veteran's spouse had a legal residence within
11 ~~such~~ the county at the time of his or her death.

12 Section 229. That § 33-19-9 be amended to read as follows:

13 33-19-9. Each board of county commissioners of each county of this state may, as soon as
14 the money has been appropriated, purchase not ~~to exceed~~ more than ten burial plots and provide
15 for the perpetual care ~~thereof, the~~ of the plots. The cost of ~~such~~ the plots with perpetual care may
16 not ~~to~~ exceed seventy-five dollars per plot.

17 The title to ~~such burial lots shall be~~ the burial plots is vested in the State of South Dakota,
18 and permits for burial ~~therein~~ in the plots shall be issued by the county auditor of the respective
19 county.

20 Section 230. That § 33-19-10 be amended to read as follows:

21 33-19-10. Any county is ~~authorized also to~~ may pay burial expense of persons described in
22 § 33-19-8 not in excess of one hundred dollars for any such burial. ~~The county in which such~~
23 ~~person shall die or have~~ if the person dies in the county or has legal residence in the county at
24 the time of death ~~shall be liable for such payment. No liability on the part of any county shall~~

1 ~~accrue under this section unless~~ and if the relatives or friends of the deceased furnish affidavits
2 acceptable to a circuit judge for ~~such~~ the county that the estate of ~~such~~ the decedent is not
3 sufficient to defray ~~said~~ the funeral expense.

4 Section 231. That § 13-55-8 be amended to read as follows:

5 13-55-8. Any person desiring to ~~avail himself of~~ use the benefits of § 13-55-6 shall ~~make~~
6 ~~application~~ apply to the Board of Regents ~~therefor, and it shall be the duty of the.~~ The Board of
7 Regents to shall determine whether ~~such person so applying~~ the applicant is entitled to the
8 ~~benefits of said section and to that end are authorized and empowered to.~~ The Board of Regents
9 may promulgate rules pursuant to chapter 1-26 ~~not inconsistent therewith in order~~ to accomplish
10 the purposes of §§ 13-55-6 to 13-55-9, inclusive.

11 Section 232. That § 13-55-9 be amended to read as follows:

12 13-55-9. ~~Upon~~ If the Board of Regents ~~determining~~ determines that any ~~such~~ person
13 applying under § 13-55-8 is entitled to free tuition in any state educational institution under the
14 control and management of the Board of Regents ~~it,~~ the board shall issue its certificate in
15 duplicate that ~~such person named~~ the person is entitled to free tuition in such an educational
16 institution, ~~one of which.~~ One of the duplicate certificates shall be delivered to the educational
17 institution with which ~~said~~ the person desires to matriculate and the other ~~of which duplicate~~
18 ~~certificates~~ duplicate certificate shall be delivered to the person ~~so~~ applying for the benefits of
19 § 13-55-6. The action of the Board of Regents ~~shall be~~ is final.

20 Section 233. That § 13-55-10 be amended to read as follows:

21 13-55-10. Any ~~person under the age of twenty-five years, a resident of this state, whose~~
22 ~~father, mother or spouse die or have died or have or hereafter sustain~~ resident of this state who
23 is less than twenty-five years of age and whose parent or spouse dies or has died or sustains or
24 has sustained a total and permanent disability ~~permanent in nature~~ resulting from duty as a

1 member of the South Dakota National Guard, while on state active duty or any authorized
2 training duty, ~~shall be~~ is entitled to tuition without cost and ~~be entitled to~~ may attend any course
3 or courses of study in any state educational institution under the control and management of the
4 Board of Regents.

5 The application and receipt of the benefits of this section ~~shall be~~ are governed by the
6 provisions of §§ 13-55-6 to 13-55-9, inclusive.

7 Section 234. That § 21-48-24 be amended to read as follows:

8 21-48-24. The affidavit provided for in subdivision 21-48-23(2) may be made and filed for
9 record for the purpose of complying with the provisions of the ~~Soldiers' and Sailors' Civil Relief~~
10 ~~Act of 1940, passed by the Congress of the United States and approved on October 17, 1940,~~
11 ~~and all laws amendatory thereof~~ Servicemembers Civil Relief Act of 2003, 54 Stat. 1178, 50
12 App. U.S.C.A. 501-48 and 560-591, as amended to January 1, 2007, and where such may be if
13 required, for the purpose of showing compliance with the Federal Tax Lien Act and
14 amendments, and, as amended to January 1, 2007. The affidavit may be made and filed for
15 record at any time ~~subsequent to such~~ after the mortgage foreclosure sale, whether ~~such~~ the sale
16 was heretofore or is hereafter made.

17 Section 235. The code counsel shall change the term, national guard, to National Guard,
18 wherever the term appears in title 33. The changes required by this section shall be implemented
19 when the volume of the South Dakota Codified Laws containing title 33 is republished.